

INFORMATIONAL HEARING and SITE VISIT
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification) Docket No.
for the Morro Bay Power Plant) 00-AFC-12
Project)
-----)

209 SURF STREET
MORRO BAY, CALIFORNIA

TUESDAY, FEBRUARY 20, 2001

5:15 p.m.

Reported by:
James Ramos
Contract No. 170-99-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Michal Moore, Commissioner, Presiding Member

Gary Fay, Hearing Officer

Terry O'Brien, Adviser to Chairman Keese

STAFF PRESENT

Caryn Holmes, Staff Counsel

Kae C. Lewis, Project Manager

Mary Dyas, Siting Project Secretary

APPLICANT

Christopher T. Ellison, Attorney,
Ellison, Schneider and Harris

Andrew L. Trump, Director of Business Development
Western Region

Robert E. Cochran, II, Project Manager

Randy Hickock, Director of Operations, California
Power Plants

Mark Seedall, Director

Brad Forlier, Vice President, Development

Wayne Hoffman, Environmental Manager

Steve Goschke, Plant Manager, Morro Bay

Randy Vigor, Moss Landing Power Plant Project

Duke Energy North America

PUBLIC ADVISER

Roberta Mendonca

INTERVENORS

Henriette Groot, President

Jack McCurdy

Monique Nelson

Dr. Richard Smith

Melody DeMeritt

Dr. Peter Wagner

Coastal Alliance on Plant Expansion

INTERVENORS

David Nelson
 Betty Winholtz
 Don Boatman
 Coastal Alliance on Plant Expansion

ALSO PRESENT

Rodger Anderson, Mayor
 Janice Peters, Vice Mayor
 Greg Fuz, Public Services Director
 Rob Schultz, City Attorney
 Bob Hendrix, City Manager
 Joe Loven, Chief of Police
 Rick Algert, Harbor Director
 David Madway, Special Counsel
 Dave Elliott, City Council
 City of Morro Bay

Stephen A. Orosz, Traffic Engineer
 Penfield & Smith
 representing the City of Morro Bay

Robert Carr, Director
 Gary Willie, Project Engineer
 Larry Allen
 San Luis Obispo County Air Pollution Control
 District

Dr. Julian Crocker, Superintendent
 Celeste Royer, Coordinator
 San Luis Obispo County Department of Education

Cathy Boyce, representing
 Senator Jack O'Connell

Richard Macedo, representing
 Supervisor Shirley Bianchi

Mark Vigil, Sr., Chief
 Rhonda Vigil, Administrator
 Tarren Collins, Attorney
 San Luis Obispo County Chumash Council

Michael Multari, Program Director
 Morro Bay National Estuary Program

Chuck Meissner

ALSO PRESENT

Patti Dunton

Joan Carter

Ed Ewing

F. Harry Rogers

Pam Soderbeck

Barbara-Jo Osborne

Rick Grantham

Hal Tune

John Barta, Editor
Morro Bay Crossroad

Jim Nance

Garry Johnson

John Lindsey, Manager
Driscoll's Wharf

Arby Kitzman

Bill Woodson

Ed Biaggini, President
Morro Bay Motel and Restaurant Association

Bonita Churney

Steven M. Weiner, Executive Secretary/Treasurer
Santa Barbara/San Luis Obispo Building Trades
Council

Hank Lewis
International Brotherhood of Electrical Workers
Local 639

Kim Kimball, Executive Director
Morro Bay Chamber of Commerce

Estella Vazquez

ALSO PRESENT

David Spaur, President
Economic Vitality Corporation

Nancy Barta

Steve Soderstrom

John Baker

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1 P R O C E E D I N G S

2 5:15 p.m.

3 HEARING OFFICER FAY: Good afternoon.

4 This is a hearing of the California Energy
5 Commission, and it is known as an informational
6 hearing. It was preceded by a site visit of the
7 Morro Bay Power Project. And the informational
8 hearing is on the proposal for the Morro Bay Power
9 Plant project modernization.

10 To my left is Commissioner Michal Moore
11 of the California Energy Commission. And to my
12 right is Terry O'Brien, Adviser to the Chairman of
13 the Energy Commission, William Keese. And I am
14 Gary Fay; I'm the Hearing Officer on the case, and
15 I will be running the hearing today.

16 Before we get started I'd just like to
17 ask the Commissioner, would you like to make any
18 opening remarks?

19 PRESIDING MEMBER MOORE: I do have a
20 couple of remarks. As Gary said, I'm Michal
21 Moore, and I preside over this Committee.

22 I would normally be joined by my
23 colleague, Commissioner William Keese, who is also
24 Chairman of the California Energy Commission, but
25 as you may have heard we have something of an

1 energy crisis going on in the state, and all the
2 Commissioners are what I would say, pretty fully
3 booked up with other cases.

4 So, the possibility is large that during
5 these proceedings you may only see one
6 Commissioner at a time because the others will be
7 so busy dealing with other cases.

8 I want to offer a couple of words about
9 the process here, and hopefully invite all of you
10 to participate in it even more than you have to
11 date.

12 We run a pretty informal hearing here.
13 Our job, especially as we go on into the
14 evidentiary hearings, is to make sure that the
15 public gets heard, and that the facts come out
16 about a case, and that finally when the decision
17 is rendered, which is known in the jargon of the
18 Energy Commission as Presiding Member's Proposed
19 Decision or PMPD -- and by the way, we try to
20 minimize the use of acronyms up here. Not only
21 because it's not very polite, but also because it
22 gets confusing. So, I'll ask people, especially
23 the professionals who address us, to minimize
24 wherever possible or to fully explicate the use of
25 the acronyms that they are used to using in

1 private.

2 When we conduct a public hearing like
3 this, especially as Mr. Fay indicated, this is an
4 informational hearing, so we don't really have
5 evidence in front of us. We're interested in what
6 the community has to say. But, in a sense, what
7 we're not interested in having are long, lengthy
8 diatribes about whether something's good or
9 something's bad.

10 We're interested in your opinion and
11 we're interested in facts, but I'll tell you, once
12 we get a sense of how many people would like to
13 speak, we may have to put a not tight-fisted, but
14 some sort of nominal time limit on the amount of
15 time people can take, so that everyone gets a
16 chance to speak before us.

17 And while I'm not absolutely ruthless in
18 the way we rein those in, believe me I'm likely to
19 be fairly firm, so that everyone gets a chance to
20 speak to us before the evening is over.

21 So, we'll take evidence over the course
22 of this project, which, by law, is supposed to
23 terminate at a year. And we'll see what we do
24 with that time limit in terms of the amount of
25 information we get in and the timeliness of it,

1 and Mr. Fay's scheduling in terms of writing up
2 our -- he, by the way, is our Hearing Officer and
3 is the brains behind all of the decision that goes
4 up here. And he also, when I've indicated how I
5 feel about the facts that have come in, it's Mr.
6 Fay who translates that into real English and real
7 legally defensible language.

8 So, I tell you that we're here to get
9 the best testimony that we can, and to make this
10 project as available and as clear to the public as
11 we possibly can through this process.

12 And we will then render a decision at
13 the end of this.

14 So, with that, I also welcome you to our
15 hearings, and I'm pleased. I grew up in Grover
16 City, so it's nice to be back close to home. And
17 to know the territory. So it's, I think, one of
18 not exactly neighbors, but one where we're
19 certainly going to be very responsive and
20 respectful of the public will and the community
21 interest and the community attitude.

22 So, with that I think we're going to
23 get -- oh, and that's a good reminder. If you
24 have a cell phone and you feel that you need to
25 take messages or something, can you turn it to

1 silent so that it doesn't ring. I think all of us
2 in the room would appreciate that and be in your
3 debt for not having that kind of an interruption.

4 So, we'll proceed, I guess, to the rest
5 of the introductions.

6 HEARING OFFICER FAY: Thank you. At
7 this time I'd like to have the applicant introduce
8 their people. Mr. Ellison.

9 MR. ELLISON: Thank you, Mr. Fay,
10 Commissioner Moore. My name is Chris Ellison with
11 the lawfirm of Ellison, Schneider and Harris,
12 representing the applicant Duke Energy in this
13 proceeding.

14 MR. TRUMP: My name is Andrew Trump; I'm
15 the Team Leader for the modernization effort for
16 Duke Energy. We also have a number of other Duke
17 Energy representatives here today.

18 We have Randy Hickock, who is the
19 Director of Operations for the California Power
20 Plants for Duke Energy. Mark Seedall, also a
21 Director with Duke Energy, responsible in large
22 part for many of the very positive things that
23 have happened here in Morro Bay, and also the Moss
24 Landing licensing activities.

25 Brad Forlier is also here. Brad is

1 the -- I hope he's here -- I guess he hasn't
2 arrived quite yet. He's the Vice President for
3 Development for Duke Energy. Wayne Hoffman is our
4 Environmental Manager. I believe Steve Goschke
5 may be here, who is the Plant Manager for the
6 Morro Bay facility. Thank you.

7 HEARING OFFICER FAY: Thank you. I'll
8 just mention if it isn't obvious already that
9 today's hearing is being televised. And it is
10 being broadcast to the local community. So, if
11 some of your neighbors were not able to attend in
12 person, they may be watching at home.

13 Now, I'd like the Energy Commission
14 Staff to identify itself.

15 MS. LEWIS: I'm Kae Lewis. I'm the
16 Project Manager for this case.

17 MS. HOLMES: Caryn Holmes, I'm the Staff
18 Counsel for this case.

19 HEARING OFFICER FAY: And the Public
20 Adviser.

21 MS. MENDONCA: Thank you, I'm Roberta
22 Mendonca, and a Public Adviser at the Energy
23 Commission.

24 HEARING OFFICER FAY: Ms. Mendonca's job
25 is to help members of the public participate in

1 our process. So if you have questions about the
2 process that we have not answered today, or others
3 occur to you later, feel free to call her office.

4 The Coastal Alliance on Plant Expansion.

5 MS. GROOT: My name is Henriette Groot
6 and I'm the President of the Coastal Alliance on
7 Plant Expansion.

8 HEARING OFFICER FAY: Excuse me, Ms.
9 Groot, could you come up, please, and identify
10 yourself. The court reporter cannot pick up
11 anybody that's not on a mike.

12 MS. GROOT: Hi, my name is Henriette
13 Groot. I'm the President of the Coastal Alliance
14 on Plant Expansion. And at this point I would
15 like to introduce the other members of the Board
16 that are here.

17 Would you please stand up? We got Jack
18 McCurdy, Monique and Dave Nelson, Richard Smith,
19 Melody DeMeritt. The members who were not able to
20 be present are -- sorry, Pete Wagner is here,
21 Pete.

22 MR. WAGNER: I did stand.

23 MS. GROOT: Oh, sorry, I think I got
24 them all, thank you.

25 HEARING OFFICER FAY: Thank you,

1 Ms. Groot.

2 And would someone from Morro Bay like to
3 introduce the main participants on behalf of the
4 City?

5 MAYOR ANDERSON: With your permission
6 I'm going to face the crowd, as well. I'm the
7 Mayor of Morro Bay, Rodger Anderson. Dave
8 Elliott, I believe, is here in the room, a Member
9 of the City Council. Mr. Bill Pierce. Janice,
10 Vice Mayor. Is Colby here, or is he still down in
11 southern California? Mr. Crotzer is apparently
12 not with us this afternoon. I know he was down
13 south on a family visit.

14 City Staff, Mr. Greg Fuz, our Public
15 Services Director; Rob Schultz, City Attorney; Bob
16 Hendrix, our City Manager; Chief Joe Loven, our
17 Police Chief. Is Jeff Jones here, anyone from the
18 Fire Department? Guess not.

19 I'm sure you are well aware we've had, I
20 believe 17, 18 meetings, council meetings and
21 special workshops and meetings on this. We've had
22 two ballot measures. We've had a City Council
23 election and Mayoral race that all seemed to
24 center around this.

25 And if you haven't heard about our

1 dealings with Shell Oil, you'll have to catch up
2 on that. This is a very active community and
3 people do become involved in what goes on around
4 them here. And we will participate in this
5 process.

6 I'm sure that you will walk away knowing
7 that a town of 10,000 gets involved in what goes
8 on when it's Morro Bay.

9 Thank you for being here, and thank you
10 for having the hearings here. That was one of the
11 concerns early on that the community was very
12 clear on. We didn't want to have to go to
13 Sacramento for everything. And I know it's not
14 convenient for all of you to be here, but for all
15 of us to be in Sacramento would be even more
16 difficult. So, thank you.

17 And I won't be able to stay the full
18 evening today, I've been at all those other
19 meetings and I plan to be here. And for those of
20 you who don't know, these will continue from 4:00
21 in the afternoon tomorrow and Thursday until 9:00
22 in the evening, both days. Is that still the
23 calendar schedule?

24 HEARING OFFICER FAY: I understand --

25 PRESIDING MEMBER MOORE: Staff

1 workshops, right.

2 HEARING OFFICER FAY: -- staff
3 workshops, yes.

4 PRESIDING MEMBER MOORE: Right.

5 MAYOR ANDERSON: But we, the public, can
6 come and observe all that goes on through all of
7 those hearings.

8 HEARING OFFICER FAY: That's correct.

9 MAYOR ANDERSON: Very good. Thank you
10 for being here, and did I miss anyone from the
11 City that -- there are a lot of people here, as
12 there usually are for such things.

13 Oh, Rick Algert, our Harbor Director;
14 David Madway, our Special Counsel. Where's David?
15 Here he is, okay. I know I'd seen him around.
16 And I think that covers all of our City people.
17 So, thank you very much.

18 HEARING OFFICER FAY: Thank you.
19 Today's informational hearing is the first public
20 event by the Commission as part of the
21 Commission's licensing proceeding on this Morro
22 Bay Power Plant project.

23 Notice of today's hearing was sent to
24 all parties, adjoining landowners, interested
25 governmental agencies and other individuals on

1 January 30, 2001.

2 In addition, notice of today's events
3 was published several times in local newspapers.

4 Documents pertinent to today's hearing
5 include the staff issue identification report, and
6 the proposed schedule, which was filed on February
7 8th.

8 The purpose of today's hearing is to
9 provide a public forum to discuss the proposed
10 Morro Bay Power Plant project, to describe the
11 Energy Commission's review process, and to
12 identify the opportunities for public
13 participation during the course of the process.

14 This hearing was preceded by a visit to
15 the project site which began at 3:00 p.m.

16 Today's events are the first in a series
17 of formal hearings which will extend over
18 approximately the next year. The Commissioners
19 conducting the proceeding, and that is
20 Commissioner Moore and Chairman Keese, will
21 eventually issue a proposed decision containing
22 their recommendations on the proposed power plant.

23 It's important to note that these
24 recommendations must, by law, be based solely on
25 the evidence contained in the public record.

1 During the course of today's hearing we
2 will proceed in the following manner: First,
3 we'll ask the Commission Staff to provide an
4 overview of the Commission's licensing process and
5 the staff's role in reviewing the power plant
6 project.

7 Then Roberta Mendonca, the Public
8 Adviser, will briefly explain how to obtain
9 information about and participate in this
10 licensing process.

11 We'll ask a representative of the City
12 of Morro Bay to explain the City's role to date,
13 and also what participation they anticipate in our
14 process.

15 We'll ask the Coastal Alliance, which is
16 an intervenor in this case, to explain its
17 involvement.

18 And finally, we'll have the applicant
19 describe the proposed project and explain its
20 plans for developing the site.

21 Upon completion of these presentations
22 any other interested agencies and members of the
23 public may ask questions of any of the parties who
24 have spoken.

25 After that we'll turn to a discussion of

1 scheduling and other matters addressed in the
2 staff's February 8th issue identification report.

3 While the Public Adviser and the
4 Commission Staff will go into greater detail
5 later, I'd like to briefly tell you what to expect
6 from the Commission's process.

7 First, we are all embarking on what is
8 considered a functionally equivalent process to
9 the California Environmental Quality Act.
10 Basically this means two things.

11 One, our process must, by law, address
12 the substantive requirements and policies of the
13 California Environmental Quality Act, sometimes
14 referred to as CEQA.

15 And two, we provide a process which
16 gives a vastly more comprehensive opportunity for
17 public review, comment and participation than does
18 the traditional Environmental Quality Act EIR
19 process, or environmental impact report process.

20 For example, while public hearings are
21 encouraged under the California Environmental
22 Quality Act, the law makes clear that they are not
23 required. Just for example, section 15087 states:
24 Public hearings are encouraged, but not required,
25 as an element of the CEQA process." And, again

1 later in 15202A, it states: CEQA does not require
2 formal hearings at any stage of the environmental
3 review process. Public comments may be restricted
4 to written communication."

5 In the EIR process the public review and
6 comment portion may be conducted entirely by
7 written comment. However, in the California
8 Energy Commission process every meeting, workshop,
9 hearing or other event must be noticed and open to
10 the public. And must allow the public an
11 opportunity to comment and participate.

12 You will definitely have ample
13 opportunity to make your points of view known, and
14 to comment upon the proposed project. These
15 rights, however, also mean that, as Ms. Mendonca
16 will explain later, you will necessarily assume
17 the burden that accompanies participation in the
18 process.

19 Second, I suspect that many of you are
20 here because you do not favor the project and
21 perhaps have alternative views of where it should
22 be located. And I assure you that alternatives
23 will be explored fully over the next 12 months or
24 so.

25 Please keep in mind, however, that the

1 legal standard which applies in a case such as
2 this is not that our focus be on the best of all
3 possible configurations or locations for the
4 project, but rather the pertinent question is
5 whether an alternative configuration or location
6 would avoid or substantially lessen any
7 significant effects of the project.

8 CEQA, in section 15126D(1) describes the
9 discussion of alternatives shall focus on
10 alternatives to the project or its location which
11 are capable of avoiding or substantially lessening
12 any significant effects of the project.

13 An example of this would be that CEQA
14 describes a key question as the first step in the
15 analysis being whether any of the significant
16 effects of the project would be avoided or
17 substantially lessened by putting the project in
18 another location. Only locations that would avoid
19 or substantially lessen any of the significant
20 effects of the project must be considered for
21 inclusion in the environmental impact report, or
22 in our case, in the proposed decision.

23 Finally, you can expect that all
24 decisions made in this case, including whatever
25 the Committee's final recommendations are, will be

1 made solely on the basis of the public record.

2 To insure that this happens and to
3 preserve the integrity of the Commission's
4 licensing process, Commission regulations and the
5 California Administrative Procedure Act expressly
6 prohibit off-the-record contacts between the
7 participants in the proceeding and the
8 Commissioners, their Advisers and the Hearing
9 Officer.

10 This is known as the ex parte rule.
11 This means that all contacts between a party to
12 this proceeding and Commissioners Moore and Keese,
13 and their staffs, concerning a substantive matter
14 must occur in the context of a public discussion,
15 such as the one that we will have today, which is
16 on the record and is open to everybody to hear.

17 The purpose of this rule is to provide
18 full disclosure to all participants of any and all
19 information which may be used as a basis for the
20 future decision.

21 So we don't want any party, whether it's
22 Duke Energy or the Energy Commission Staff or an
23 intervenor group from town to have behind-the-
24 doors access to the decision makers. And that's
25 what the ex parte rule is designed to prevent.

1 We will now begin with our
2 presentations. In the interest of time please
3 hold your questions until the end of all the
4 presentations, and I think we'll then make all the
5 presenters available to the audience so you could
6 ask the staff, Duke, anybody your questions at
7 that time.

8 And so now I'd like to begin with the
9 staff's presentation on the Energy Commission's
10 process.

11 MS. LEWIS: Gary, would you like me to
12 also talk about the issues, or just the process?

13 HEARING OFFICER FAY: I think the issues
14 identification report and the scheduling
15 discussion will be later.

16 MS. LEWIS: Okay. What I'm going to
17 address, again I'm Kae Lewis; I'm the Project
18 Manager from the Energy Commission. And I will
19 explain to you our process.

20 In the back of the room we have the
21 slides are in handouts as well as copies of the
22 issue identification report.

23 The Energy Commission siting process is
24 designed to insure the protection of public health
25 and safety and the protection of the environment

1 in the siting of power plants.

2 Our permitting authority is for thermal
3 power plants of 50 megawatts or greater, and all
4 the related facilities, such as transmission
5 lines, water supply lines, et cetera.

6 We coordinate very closely with federal,
7 state and local agencies and we are the lead
8 agency for CEQA, the California Environmental
9 Quality Act.

10 Next slide. This slide here describes
11 the participants in the process. The ultimate
12 decision on the siting of the power plant is made
13 by the five-member Commission. They are advised
14 by a two-member project Committee of which
15 Commissioner Moore is the Presiding Member.

16 That Committee is assisted by the
17 Hearing Officer Gary Fay, who is now running this
18 meeting.

19 The entities that provide input into
20 that decision-making process is the third line
21 across the bottom there. And that includes the
22 applicant, Duke Energy in this case; the local,
23 state and federal agencies; the Energy Commission
24 Staff, which I coordinate their input; the
25 intervenors, such as right now the Coastal

1 Alliance; and also public members.

2 Robert Mendonca, our Public Adviser,
3 assists those last two groups in coordinating
4 their input.

5 Next slide. The siting process is a
6 project evaluation process. And it has these
7 components: It provides full review of
8 environmental impacts. It provides an engineering
9 analysis. Reviews compliance with local
10 regulations, state and federal. And it's very
11 much a public process every step of the way. We
12 will be having public workshops and hearings like
13 you're attending right now.

14 In terms of documentation, our key
15 products, written documents, are the preliminary
16 staff assessment, final staff assessment, the
17 Presiding Member's Proposed Decision and then the
18 final Commission decision.

19 There is public comment and revisions
20 between each of those steps.

21 Next slide. This is just a listing of
22 all the types of technical areas that we get into.

23 Next slide. Let me just tell you a
24 little bit about the steps of the process. The
25 first two steps are prefiling, that's before an

1 applicant is even filed. It helps an applicant
2 provide a complete application.

3 Data adequacy was the very first step
4 once the application was sent to us. That was
5 last October. And that's a process that
6 determines if the application for certification is
7 complete, the AFC. That was completed in mid
8 January.

9 We are now in the discovery phase, which
10 is why that's darkened there. Beginning with the
11 information hearing and site visit that we had
12 today, and then we will start our data requests
13 and workshop phase, that starts tomorrow.

14 The purpose of the discovery phase is to
15 collect the data that will help us identify what
16 the significant impacts of this power plant
17 project will be.

18 The next step is the analysis, and this
19 is an in-depth analysis of significant impacts and
20 possible options for mitigation. The key products
21 of this phase is the preliminary staff assessment
22 and then that goes to public comment; gets
23 revised. And then we have a final staff
24 assessment.

25 The staff assessments, what they

1 provide, those are the Energy Commission Staff's
2 recommendations if should this plant be
3 constructed and operated. And, if so, under what
4 conditions.

5 The next step is the Committee hearings.
6 All along the way while we have workshops and data
7 requests, trying to resolve the issues that arise.
8 And when we get to the point of having Committee
9 hearings, what we're dealing with there are
10 unresolved issues. The thorny issues that must be
11 adjudicated in hearings that are presided over by
12 the Commissioners.

13 At the conclusion of the hearings, after
14 all the testimony is collected, then the project
15 Committee will then write the Presiding Member's
16 Proposed Decision. That will then go to a public
17 comment period. And at the conclusion of that it
18 will go to the full Commission, the five-member
19 Commission, and the last step is then the drafting
20 of the final Commission decision.

21 At the conclusion of that, once a power
22 plant project gets its certification, it then goes
23 into a compliance mode. And that is where the
24 Commission monitors whether or not the conditions
25 of certification, which are part of the final

1 decision, are being complied with in the plant
2 construction and operation.

3 So, then, again, I wanted to emphasize
4 that the final decision will indicate should this
5 plant be constructed and operated. And if so,
6 under what conditions. And then the Energy
7 Commission then monitors that those conditions are
8 being met. And that is the process.

9 Just the las slide there is just an
10 indication of the state, local and federal
11 agencies that we have been working with thus far
12 in this process.

13 HEARING OFFICER FAY: Thank you, Ms.
14 Lewis. Ms. Mendonca, would you like to take a
15 moment and explain the role of your office?

16 MS. MENDONCA: Kae, how did you manage
17 to speak and have your -- this way? Hi, I'm
18 Roberta Mendonca and I'm the Energy Commission's
19 Public Adviser.

20 Okay, legitimate question: What's the
21 Public Adviser? It's quite a unique position in
22 state government and not very many agencies have
23 one, so basically the Public Adviser is here to
24 help you participate in proceedings before the
25 Energy Commission.

1 So I'm a resource for you. I'm a
2 resource to give you information, and I'm a
3 resource to help you find information. I'm a
4 resource to help you understand the process.

5 So part of that is getting you
6 information. When you came in this evening it's
7 important if you want to follow this process that
8 you get on the mailing list and you get the
9 notices for the future meetings that have been
10 described and will be going on during the next
11 year. So be sure and sign in and check off on the
12 sign-in sheet that you'd like to be added to the
13 mailing list.

14 For those of you that have email, you
15 can go to the Energy Commission's website and go
16 to the Morro Bay webpage and follow the project on
17 the website. You can also sign up for email
18 notice by going to the list server and putting
19 your email address on for email notification.

20 The Public Adviser also has a toll free
21 number which is 800-822-6228.

22 And so as you're sitting here this
23 evening you're probably wondering, well, how
24 involved am I going to be. Well, fortunately, all
25 of the Energy Commission meetings are open public

1 meetings, and the public will always have a part
2 to play in hearings, meetings, conferences and
3 workshops. There's always an opportunity for the
4 public to come forward and make comment and offer
5 opinions, perspectives and share points of view.

6 If you do that at a workshop it
7 contributes to the staff's understanding of the
8 project. If you do it at a formal meeting like
9 today, it becomes a part of the written record.
10 It's transcribed.

11 Some people also decide to become a more
12 involved player by going through a process that
13 the Energy Commission allows called intervention.
14 Intervening allows you to become a party and it
15 carries with it certain responsibilities.

16 You must be willing to abide by the
17 rules of proof of service. You must be willing to
18 abide by the rules for discovery and exchange of
19 data, as well as serve all the other parties your
20 documents.

21 The benefits of intervening are that you
22 receive all of the documents in the case, and when
23 we get to the formal phase, the decision formal
24 deciding phase, you can call your own experts and
25 you can cross-examine witnesses.

1 So, let me just once again say that I'm
2 the Public Adviser. My office is in Sacramento.
3 I will try to make as many meetings as I can here
4 in your community. And please don't hesitate to
5 contact my office and make use of my resources to
6 help you in understanding this process.

7 Thank you.

8 HEARING OFFICER FAY: Thank you, Ms.
9 Mendonca. I would just like to add that whether
10 or not people choose to intervene in the process,
11 anybody that has access to the internet can tune
12 in the Commission's webpage and the section on the
13 Morro Bay project.

14 And there's a subsection on documents,
15 and you can look at all the latest documents that
16 were filed, at least by the staff. That would
17 include transcripts of hearings, you can review
18 transcripts of the evidentiary hearings after they
19 take place, because they will be posted.

20 You can look at notices; we post the
21 notices on the webpage. So, if you do have access
22 to the internet it makes it fairly easy to keep up
23 with the documents generated by the Commission.

24 However, all documents are not posted on
25 the webpage, so for instance if the applicant

1 files something it wouldn't necessarily be posted.
2 Or if one of the other parties, the City of Morro
3 Bay or the Coastal Alliance files something, it
4 wouldn't necessarily be available to you on the
5 webpage.

6 At this time I'd like to ask the City if
7 they would like to make a presentation about their
8 role to date and also their plans for the future.
9 We've heard from the Mayor, and perhaps we will
10 again. I know there's some other City
11 participants who can help describe this for us.

12 MR. FUZ: Good evening, Chairman Moore
13 and Hearing Officer Fay and representatives from
14 Duke and the community.

15 We appreciate the opportunity to address
16 you this evening. This may be the beginning of
17 the process for you, but here in the City of Morro
18 Bay we've been working on this since the summer of
19 1999.

20 At that time we began nearly a year of
21 input into this project involving City Staff, Duke
22 and the community in an effort to reshape the
23 project to address key City issues. And we
24 applaud Duke for giving the community and the City
25 the opportunity to do that. We think it's

1 resulted in a vastly superior project to the one
2 that was originally submitted.

3 The process that we undertook included
4 review by a team of City technical advisers and
5 community workshops that resulted in preparation
6 of a comprehensive set of preapplication
7 recommendations which Duke considered as it
8 prepared its revised application which is now
9 before you.

10 The result has been a project, compared
11 to the original project, that now provides for
12 twice the new more efficient generation to be
13 provided in half the time as compared to the
14 original project. And it also addresses many key
15 City concerns.

16 Paramount among those City concerns is
17 the crucial important issue of demolition of the
18 entire existing plant. We're very pleased that
19 this project now includes the entire replacement
20 of that 1950s vintage plant with a new plant that
21 would be substantially less obtrusive and invasive
22 to the community.

23 We look forward to now working with the
24 Energy Commission and its staff to address the
25 remaining issues related to the project with the

1 goal of working together with you to develop the
2 best possible project.

3 We appreciate, in that regard, your
4 staff's consideration of our preapplication
5 recommendations, our data adequacy comments, and
6 the various comments that our technical advisers
7 have provided to date.

8 And I thank you for the opportunity to
9 address you tonight. I would like to mention, and
10 I don't know if you want to take this person at
11 this time, or if you want to do it at a later time
12 in the meeting, but we have our traffic engineer
13 here tonight. As I mentioned earlier he's not
14 available to come tomorrow or Thursday, and we'd
15 like an opportunity to allow him to make a brief
16 presentation.

17 PRESIDING MEMBER MOORE: Mr. Fuz, I
18 think that that would be appropriate to have him
19 follow you, but before he does, let me ask you
20 just a couple of questions to get my own mind
21 straight on things that I've heard.

22 First, are you operating under a
23 memorandum of understanding with the applicant at
24 this time?

25 MR. FUZ: That's correct.

1 PRESIDING MEMBER MOORE: Could you
2 briefly describe what that MOU, or memorandum of
3 understanding is all about? And what its status
4 is in terms of implementation right now?

5 MR. FUZ: Yes, I'd be happy to. The MOU
6 was approved by the City Council in February of
7 last year after a number of public workshops and
8 discussions between Duke and the applicant and the
9 City of Morro Bay, to set a number of goals for
10 reshaping the project.

11 And the MOU is a nonbinding document in
12 the sense that it's not a legally binding
13 document, but it makes commitments by both Duke
14 and the City to work together to develop a project
15 that hopefully both parties will be able to
16 support before the California Energy Commission.

17 And among the goals of the MOU were to
18 reshape the project, to demolish the existing
19 plant, replace it with a substantially smaller,
20 less obtrusive facility. To work toward a number
21 of environmental improvements related to
22 improvements to regional air quality and lessening
23 impacts on water resources.

24 Establish a process for early public
25 input prior to Duke's resubmittal of its

1 application, which we called the preapplication
2 process. And we completed that process, as well
3 as insuring a number of economic benefits to the
4 community, including various revenue guarantees,
5 et cetera.

6 The preapplication process that was
7 provided for through the MOU was funded by Duke
8 and it was managed by the City; and was conducted
9 through the City's team of technical advisers over
10 a period of several months last year. Where our
11 advisors essentially took a fresh look at the Duke
12 concept and came up with a number of
13 recommendations to modify the project, to address
14 City concerns.

15 Those recommendations were brought
16 forward before the community in a series of
17 workshops culminating in a public hearing before
18 the City Council last summer in which the Council
19 accepted these preapplication recommendations and
20 forwarded them to Duke. And we've provided your
21 staff with a copy of that report.

22 Duke then considered those
23 recommendations in preparing its new application,
24 which is currently before you.

25 PRESIDING MEMBER MOORE: Any points in

1 the MOU that have become sticking points at this
2 point, or not getting implemented, or is that MOU
3 serving as a reasonable template for you to go
4 ahead?

5 MR. FUZ: The MOU is a very important
6 roadmap for our involvement in the process. There
7 are still a number of issues that have not been
8 resolved yet between Duke and the City and we're
9 working very diligently to resolve those in a
10 manner that's contemplated by the MOU.

11 So, it's still a very relevant agreement
12 between Duke and the City and we're doing our best
13 to move forward to implement that.

14 PRESIDING MEMBER MOORE: Thank you very
15 much. Maybe we can hear from your traffic
16 engineer at this point?

17 MR. FUZ: Thank you.

18 PRESIDING MEMBER MOORE: Good evening.

19 MR. OROSZ: Good evening -- not quite,
20 good afternoon, got a few more minutes yet.

21 PRESIDING MEMBER MOORE: Right.

22 MR. OROSZ: My name is Steve Orosz. I'm
23 a Principal Traffic Engineer with an engineering
24 firm name of Penfield and Smith. We're working
25 with the City on reviewing the application and the

1 information being provided by Duke Energy on this
2 project. And thank you for taking my comments
3 today.

4 We concur with the staff's comments with
5 respect to the data adequacy information that we
6 transmitted on November 21st, actually, I'm sorry,
7 November 16th of last year saying that a lot of
8 these points should be addressed at a later phase
9 in the discovery phase which we're in right now.
10 So we're looking forward to the responses to those
11 issues.

12 Would also like just to amplify for a
13 few minutes the traffic related comment that was
14 in the issues identification report that was just
15 filed on the 8th.

16 Mainly there's two key issues that are
17 related to the traffic factors associated with
18 this application. It's how to deal with the
19 construction and demolition phase employee
20 traffic, which is totaling around 900 people at
21 its peak. And also the truck traffic related to
22 the circulation system in and around the City, and
23 to the plant, itself.

24 Specifically other issues that relate to
25 that is coordinating with key local events within

1 the City. Morro Bay survives a lot on the tourism
2 and the timing of the construction traffic over
3 the length of time that the project's going to be
4 under construction and demolition is of key
5 importance to the City.

6 Also, with the coastal access, we're one
7 of the key intersections that's potentially
8 impacted by this project is the Main Street
9 Highway 41 Atascadero intersection just to the
10 east of highway 1 on the other side of the highway
11 from the plant, itself.

12 It's the key entrance for any business
13 traffic, tourist traffic from the east into the
14 City of Morro Bay, so it's quite a significant
15 focal point within the City.

16 One of the other issues that the City's
17 very concerned about is having any of these
18 mitigation measures for this traffic related
19 impacts either in place or very close to being in
20 place at the time of the peak traffic loads that
21 are projected. Not all the traffic's going to be
22 there at day one, but at some point early in the
23 process is when the peak traffic will be there.

24 And also to coordinate with the local
25 State Department of Transportation, Caltrans and

1 providing the mitigation measures which is the
2 intersection of two state highways is where we're
3 looking at.

4 With respect to that intersection the
5 City and Duke have been working diligently over
6 the past six to nine months in developing feasible
7 and viable alternatives to improve that
8 intersection.

9 I don't know if in your site visit today
10 that you say how that intersection operates, but
11 in the morning hours especially, with the high
12 school traffic and the coastal bike route that's
13 on the west side of highway 1, on the Duke side of
14 the highway, there's quite a bit of traffic
15 through there.

16 And presently the intersection is
17 operating at a level service of D, which is almost
18 an unacceptable level within the state highway
19 system. And that needs to be mitigated, which is
20 the cause of this.

21 And to give you a little bit of
22 perspective, the amount of traffic that's
23 projected and the information that Duke's provided
24 is roughly double the existing morning traffic
25 that's out there today. And the afternoon, about

1 three times the traffic on Atascadero Road through
2 that intersection. So it is a substantial amount
3 of traffic that we're dealing with.

4 Over the past six to nine months the
5 City has been working with Caltrans on developing
6 viable alternatives to improving that
7 intersection. We're in the middle, or almost
8 completed with the phase with Caltrans called the
9 project study report, which is a document that
10 evaluates various alternatives, identifies costs,
11 residual impacts that need to be mitigated because
12 of this improvement, and identifying funding of
13 that process.

14 And the goal of the Caltrans process is
15 to deliver the project within the timeframes of
16 the expected traffic impacts associated with the
17 Duke project. So we're trying to time everything
18 to occur at the same time. Not necessarily before
19 the project is started, but before the traffic
20 impacts are at their peak.

21 So, with that, those were the key points
22 that I wanted to reiterate.

23 PRESIDING MEMBER MOORE: Thank you very
24 much. Anyone else from the City as part of the
25 City presentation?

1 HEARING OFFICER FAY: Now I'd like to
2 ask Ms. Groot if she'd like to make a statement on
3 behalf of the Coastal Alliance.

4 MS. GROOT: Thank you, Commissioner
5 Moore, members of the staff, members of the
6 public, and City Council, and I think Supervisor
7 Bianchi's representative is also present. Thank
8 you for being here.

9 My assignment right now is to explain
10 why the Coastal Alliance decided to become
11 intervenors in the application for certification
12 review process.

13 The Alliance is a community group which
14 was formed when Duke first announced its plans to
15 expand the Morro Bay Power Plant. The mission of
16 our nonprofit organization has been to study those
17 plans and to inform the public of our findings.

18 Over the past year and a half the
19 Alliance has been asking many tough questions
20 about the unofficial plans which Duke was making
21 public. Until we could analyze the AFC, which
22 filed Duke's official plans, we did not feel that
23 in good conscience we could take a position on the
24 project.

25 When the present AFC was filed last

1 October we examined it very carefully and we
2 concluded that we could not support the project in
3 its present form.

4 Our concerns are environmental. There
5 were many issues that the City did not choose to
6 address in its MOU. The issues of the air
7 pollution and what would be happening to the Bay
8 was not addressed in the City's concerns.
9 Apparently the City felt that other agencies would
10 do that.

11 Primarily we object now to the impacts
12 on the Morro Bay estuary. Nearly 50 years ago
13 when the first phase of the plant was built there
14 was little concern for what once-through cooling
15 might do to an estuary and its marine resources.

16 Today we know better. Today we do want
17 to save our environment. California voters have
18 instituted a number of agencies charged with
19 protecting the environment. The California
20 Coastal Commission, the State Water Resources
21 Board, the Department of Fish and Game, and the
22 California Energy Commission.

23 We feel that after 50 years of losing
24 untold marine life to the once-through cooling it
25 is time for a better cooling design. We simply

1 cannot believe that a cooling system 50 years old
2 can be the, quote, "best available control
3 technology" unquote.

4 So we decided to become intervenors in
5 the CEC process in order for our concerns to
6 receive a fair hearing in view of the large volume
7 of media and PR reports from Duke through often
8 unquestioning media.

9 I would like to remind you that the
10 issue of the plant expansion is not strictly a
11 Morro Bay issue, however. Air pollution from the
12 plant affects all of the basin. Most of the
13 estuary from which the cooling water is drawn is
14 located in San Luis Obispo County in Supervisor
15 Bianchi's district.

16 The Morro Bay estuary also is part of
17 the National Estuary Program, which means the EPA
18 is involved. The limits of the Morro Bay National
19 Estuary extend out into Estero Bay well past Morro
20 Rock.

21 I ask you to take a good look at the
22 Rock; I ask you to take a drive around the Back
23 Bay and ask yourself is there any estuary left to
24 equal this one, or is this the last one protected?

25 Thank you.

1 HEARING OFFICER FAY: Thank you, Ms.
2 Groot. I'd like to point out, since you raised
3 water quality as one of your concerns, many of you
4 may be familiar with the Regional Water Quality
5 Control Board's activities, and they will be
6 evaluating Duke Power's application for a certain
7 permit. It's called a National Pollution
8 Discharge Elimination System permit, NPDES, when
9 we're allowed to use alphabet soup.

10 PRESIDING MEMBER MOORE: Which we're not
11 very often.

12 HEARING OFFICER FAY: And they will also
13 be holding public hearings on that permit. So
14 there's another opportunity for input. We work
15 essentially in parallel on the water permit
16 process. However, they will be operating within
17 the confines of our schedule.

18 Now, I understand there's a
19 representative from the Air District here? Would
20 you like to briefly review the Air District's
21 role?

22 MR. CARR: Thank you, Commissioner
23 Moore, Mr. Fay, Mr. O'Brien, my name is Bob Carr;
24 I'm the Director of the Air Pollution Control
25 District for the County of San Luis Obispo.

1 With me tonight is Gary Willie; he's our
2 Project Engineer who will be the person on the
3 staff, and has been the person on the staff who is
4 mainly involved in review of the AFC, but we have
5 other members as well. Larry Allen, principal
6 person who will be here on Thursday at your
7 workshop on that item.

8 Our responsibilities are as follows: We
9 review the AFC for air quality concerns. We will
10 produce a preliminary determination of compliance.
11 That's due to you in June. We'll accept public
12 comment after that is issued. And then we will
13 issue a final determination of compliance, which
14 is due in July.

15 We'll be looking whether all federal,
16 state and local air quality regulations have been
17 adequately met by the project, as well as looking
18 at CEQA issues that are of related concern to us
19 that have air quality implications. And advising
20 your staff and yourselves on those issues.

21 We'll look to assure that there's
22 adequate pre- and post-construction monitoring
23 within the City of Morro Bay. And we do believe
24 that there should be additional monitoring besides
25 the one monitoring station that we have operating

1 in the City at this time.

2 We want to insure that there is adequate
3 mitigation of construction emissions. We'll be
4 testifying at your Commission hearings and
5 participate in any workshops that you conduct.
6 Hopefully we won't be conducting our own workshops
7 as we did during the time of the first filing,
8 which we did do in Morro Bay. We had a workshop
9 just on air quality that we felt was important.

10 But in this process we would certainly
11 want to work with the Commission Staff and
12 participate in the workshops jointly.

13 Towards the conclusion of the project
14 then the Energy Commission will use our
15 determination of compliance in reaching its final
16 decision. And we trust that our work will be
17 looked at closely by your Commission.

18 And finally, at some point, and this is
19 still to be determined, the District will be
20 issuing a federal Title 5 permit for the facility.
21 And that Title 5 permit process does include
22 public participation in addition to what all of
23 the participation is that your Commission has in
24 the process.

25 And that concludes my brief comments on

1 our participation. I'd be glad to answer any
2 questions you might have.

3 PRESIDING MEMBER MOORE: Thank you. You
4 might want to stay, I don't know whether you're
5 planning to stay for the whole hearing, but there
6 may be questions later on that only you can
7 answer.

8 MR. CARR: Okay. Thank you.

9 PRESIDING MEMBER MOORE: Thanks.

10 HEARING OFFICER FAY: And I'd like to
11 say just as an overall comment there's many
12 agencies that will have input into the Energy
13 Commission's process.

14 And to the extent that any of those hold
15 public hearings or entertain public comment, as
16 Mr. Carr said his agency does, that's an
17 additional opportunity for you to make your voice
18 heard.

19 And we do give great deference to the
20 expertise of sister agencies such as the Air
21 District and the Water Board.

22 At this time I'd like to ask the
23 applicant if they would give us a description of
24 the project, itself.

25 MR. ELLISON: Mr. Fay, I'm going to turn

1 this over to Mr. Trump in a moment. He's going to
2 describe the project to you. Let me make two
3 introductory points before I do that.

4 The first is that just for
5 clarification, you've heard the project described
6 as a plant expansion. I think it's fairer to
7 refer to it as a contraction.

8 What's going on here is, although the
9 electric capacity of the plant will increase
10 slightly from 1000 to 1200 megawatts, in just
11 about every other way you could measure the plant
12 it's getting smaller.

13 Its water use is going down; its air
14 emissions are going down; its land consumption is
15 going down; its gas use is more efficient. Mr.
16 Trump is going to go into that in some more
17 detail. But I think it is important for you to
18 understand that basic point right from the outset.

19 The other point that I would emphasize
20 to you in response to your question, Commissioner
21 Moore, about the status of the MOU. There has
22 been one significant change from the project as
23 agreed to by the City and Duke in the MOU, and
24 that is in the MOU Duke and the City agreed to a
25 two-phase project.

1 In other words, the existing project
2 would remain until the construction of the second
3 unit, which is not going to occur until somewhere
4 around 2010. And the existing project would then
5 be torn down somewhere in the 2013 timeframe.

6 Subsequent to the negotiation of the MOU
7 in order to address continuing concerns, Duke has
8 agreed to do what we're describing as a single
9 phase project, and accelerate the teardown so that
10 it would commence immediately upon commercial
11 operation of the new project, and be torn down
12 within three years of that, or approximately three
13 years, of the commercial operation date.

14 Other than that I think the MOU is a
15 good description of where we are on the issues
16 that we're working closely with the City to
17 resolve. It remains, as Mr. Fuz described, a good
18 roadmap of where we're going. But that one change
19 I think is significant and you should be aware of
20 it.

21 With that let me ask Mr. Trump to
22 describe the project.

23 MR. TRUMP: On behalf of everyone at
24 Duke Energy I want to say thank you for having the
25 opportunity to get to this juncture in the

1 process. We think we've got a great project, and
2 we hope in the next couple minutes we can bring it
3 alive for you folks and show some of the numerous
4 benefits that are associated with this project.

5 Just very briefly I'd like just to
6 mention I failed to introduce Bob Cochran of Duke
7 Energy and Randy Vigor is also here from the Moss
8 Landing Project. Randy's actually the person
9 building the Moss Landing facility. And I believe
10 Brad Forlier, Vice President of Development, also
11 joined us.

12 Next slide. What I'd like to do is I'd
13 like to talk about a couple key themes as part of
14 the presentation tonight. First of all, why is
15 this project important to the State of California.

16 A couple things to emphasize here, we're
17 increasing capacity by approximately 20 percent
18 from a project of 1000 megawatts to 1200
19 megawatts, so increase the reliability of the
20 electricity system. It's going to be more
21 efficient in terms of natural gas.

22 This project raises the bar
23 fundamentally for other applicants in the state in
24 terms of repowering. We're taking the
25 unprecedented step of tearing down this facility

1 at a time when the state's in an energy crisis.

2 Fundamentally this project improves the
3 environment across the board, air, noise, visual,
4 water, land use across the board. We believe it
5 will demonstrate conclusively that this project is
6 improving the environment.

7 And we want to talk a little bit tonight
8 about how we got here. How we worked with the
9 local community, listened to their concerns. We
10 identified some key issues; we established
11 important agreements that were meaningful to the
12 various stakeholders. And through that process we
13 were fundamentally able to reshape this project,
14 better define it to get to where we are today.

15 It's an unprecedented degree of public
16 participation, we believe, at this point in the
17 process.

18 Commissioner Moore, I wanted to mention
19 one thing, last night when I was reviewing the
20 transcript for the Moss Landing informational
21 hearing, you had mentioned a couple things I
22 thought would be useful to repeat. You mentioned
23 you can bet this process that we go through in the
24 end will provide a model for anyone else who's
25 going to come to California.

1 And later you said, and I think all in
2 all we're going to end up setting a standard for
3 the other power plants to follow.

4 Well, I'm going to maintain,
5 notwithstanding the incredible project we have in
6 Moss Landing, this project will even take that a
7 step further for other applicants who are thinking
8 about repowering in the state.

9 We live and breathe this project, so we
10 always imagine everyone knows what the project is.
11 So I thought what could be useful is just to take
12 a couple minutes and recap for everyone exactly
13 what it is that we're proposing to do.

14 So, we have animated view of the site
15 today. This actually was drawn from one of our
16 videos that we produced with DOD.

17 The first step is to remove the tank
18 farms, the six tank farms that are on the
19 facility. And if we are successful in securing
20 the licenses by the spring of -- by this time next
21 year, we'll actually be able to remove the tanks
22 approximately April of next year.

23 The next thing is to, of course,
24 construct the new units. And we described a
25 construction sequence for approximately 21 months

1 that will begin soon after the tanks are removed,
2 and conclude at this point late '03, if not early
3 '04.

4 The next phase of the project as
5 proposed in the AFC is to demolish the plant, the
6 existing plant. The first stage of that is to
7 actually take the three large stacks down. And we
8 made a commitment to remove those stacks within
9 one year after the commercial operation date of
10 the new units.

11 And finally is the removal of the entire
12 power building. The entire demolition scope of
13 work we anticipate to be about a 40- to 48-month
14 scope of work from start to finish.

15 One thing to keep in mind as we think
16 about moving this power plant, this is actually a
17 slide that I borrowed from Steve Goschke, the
18 Plant Manager. This is a perfectly serviceable,
19 functioning, valuable power plant. It's been
20 running flat out.

21 The line going across here shows where
22 we are the current year 2000. Shows that this
23 goes back to 1968, so it shows the last 32 years
24 of operations. We had the biggest year we've ever
25 had, except for two or three other years in the

1 plant's utilization.

2 So, just to kind of keep it in some
3 context, here we are in California, in the middle
4 of a state energy crisis, the sixth largest
5 economy in the world, and we're taking a plant
6 down that's been running flat out. So I think
7 it's just an important context to keep in mind to
8 think about the overall mitigation that Duke
9 Energy is proposing here.

10 I wanted just to point out a couple of
11 the features of the facility just so we're clear
12 about what we're proposing. We provided an
13 orientation of the units with the sound wall
14 which, of course, is on the northern berm of the
15 facility, to give proper orientation.

16 What we're proposing to construct is an
17 overall 1200 megawatt facility. We have two power
18 blocks symmetrically opposed, each consisting of
19 two gas turbines in the locations there. Of
20 course, it's a waste heat recovery system. Steam
21 is being used to power the steam turbine, a three-
22 stage steam turbine. And we're also providing
23 supplementary duct firing, which is a very cost
24 effective technology to employ here.

25 So each power block then consists of a

1 total capacity of 600 megawatts. And, of course,
2 they're each a mirror image of one another for a
3 total capacity of 1200 megawatts.

4 This -- actually, why don't you flip
5 back for one second -- this actually shows the
6 facility without a series of enclosures that we're
7 proposing to provide some overall visual
8 mitigation as well as some noise abatement.

9 And the next slide shows what the
10 facility would look like once we put the
11 enclosures around the gas turbines and steam
12 turbine enclosures.

13 This project is, as I had mentioned
14 earlier, the facility has a very high level of
15 utilization right now. We're tied into a local
16 115 kV circuit here to the switchyard serving the
17 local load.

18 It's hard to read from a distance, but
19 we're tied into the Gate substation, the Midway
20 substation, the Mesa substation and backup to
21 Diablo Canyon. So we're tied into existing
22 infrastructure.

23 As I mentioned earlier, 20 percent more
24 power over the fence, net generation. We're using
25 approximately 35 -- actually had to modify this

1 figure, actually dug out the real numbers from the
2 AFC -- approximately 31 percent more efficient use
3 of natural gas when you do the proper comparison
4 on a value basis, looking at approximately an
5 overall average heat rate for the existing units,
6 if you blend 1, 2, 3 and 4 together and you look
7 at the new units, going from around 10,000 to
8 approximately 6800. So that's the magnitude of
9 the efficiency gain from the old to the new.

10 Of course, it's using existing gas
11 infrastructure. We've got a high pressure line
12 coming in from the Kettleman compression station,
13 line 306 over the hill. We've got existing
14 electrical infrastructure. We've got four
15 positions in the local switchyard.

16 We believe overall that given the
17 quality of this project we're going to help
18 through this, you know, help statewide electricity
19 costs and ultimately improve the overall system
20 reliability.

21 So, in a nutshell, that's what the
22 project consists of. Now what I'd like to do is
23 I'd like to talk a little bit about the overall
24 environmental benefits associated with the
25 project.

1 On the air quality front, very quickly,
2 what this chart shows is a comparison. This is
3 really a worst case comparison. What we've chosen
4 to do here is look at precursors to ozone
5 formation, your NOx and your hydrocarbons.
6 Similar type analysis on PM10 precursors.

7 We're looking at the actual experience
8 over two years, the last two years is developed in
9 our application for those pollutants. Okay,
10 that's actual average, and then averaged out over
11 a year. And we're comparing that to a future
12 maximum of the new facility. This is a true
13 future maximum. This is as if we used every
14 single hour that we're going to be permitted in
15 terms of our permit envelope for the new facility.

16 And you can see almost three-to-one
17 comparison of precursors for ozone formation going
18 from the old to the new facility. And a similar,
19 I think, convincing story on precursors to PM10
20 formation.

21 We have a similar story of cooling water
22 flow. Now, we've gotten a lot of criticisms and
23 comparison of issues about what are we doing on
24 the cooling water flows. And we think this chart
25 is a good way of getting our hands around that.

1 What this shows is we're looking at
2 total cooling water flow, in terms of gallons per
3 minute, and we're denominating that against total
4 generation. And we're looking at both the
5 existing units, of course they cycle staircase
6 upwards, as they would, and we're looking at that
7 compared to the new units.

8 So, no matter where you draw your
9 pencil, you can draw your pencil all sorts of
10 different ways. You can kind of look at it in a
11 true apples/apples basis looking this way. Or
12 somebody want to draw the line this way, or
13 whatever. But any way you look at it this
14 facility is going to use tremendously fewer
15 gallons of water for the cooling sea water, once-
16 through sea water cooling. And, of course, this
17 will reduce impingement effects, entrainment
18 effects.

19 The next slide, and it's a very similar
20 way, again looking at total thermal energy release
21 in the environment of Btu basis per minute, and
22 again, denominating that to the total generation.
23 And so again we capture both the existing units
24 and the new units. And, again, a dramatic
25 difference in terms of the thermal energy release

1 into the environment.

2 On the visual side here we have one of
3 the KOPs from the AFC. This is before
4 modernization effort. And going to the after
5 modernization effort. We think it's a pretty
6 dramatic change to the viewsheds.

7 Why don't you back up one slide there.
8 One of the additional proposals we have, part of
9 our AFC, is this is the intake structure that I
10 think most people had an opportunity to go down
11 and see today. And one of the additional features
12 of our project is actually to renovate the facade
13 of the structure.

14 And the next slide shows our artist
15 rendition of that facade treatment after we're
16 done with it. And that's part of our application.
17 And, of course, we're going to work with the City
18 to try to fine tune this design, see it it's in
19 keeping with what they think might be appropriate
20 for the waterfront.

21 What I'd like to do is talk a little bit
22 about, moving from some of the macro environmental
23 benefits, if you would, to some of the very
24 specific benefits associated with the land use
25 aspects of the property.

1 So, what I thought we could do is just
2 quickly reorient people to the site after we came
3 off the site tour so everyone has a good idea of
4 kind of where things are situated. So you see the
5 project boundary, the tank farm, the power
6 building, the location of the switchyard, gas
7 regulator station. So that's just to kind of get
8 people oriented.

9 Now I'd like to show a series of
10 overlays, if you would, a number of the features
11 that we're actually proposing in the AFC. This is
12 first one of the creek and existing bikeway, just
13 to again sort of reorient people to the major
14 feature there on the property.

15 The green box that we've highlighted, of
16 course, shows the location of new units. The
17 location then of the northern berm of the sand
18 wall that we're proposing.

19 The next step is to look at a series of
20 conservation easements over some of the sensitive
21 habitats and the yellow boundary that just was
22 displayed there shows three areas, but two
23 specifically, because we don't own the land area,
24 two specifically that we're proposing to put a
25 resource conservation easement over top of. The

1 one area north of the proposed location of new
2 units is a riparian corridor around Morro Creek.
3 And the other one is a bluff area just south of
4 the existing power building.

5 This next overlay shows what we're
6 proposing from a landscaping standpoint. We're
7 actually proposing seven individual discrete areas
8 for different landscaping zones around the
9 property to further provide some improvement to
10 the viewsheds. And otherwise provide some overall
11 improvement to the property.

12 Likewise we're proposing a bridge over
13 Morro Creek. This is the bridge over Morro Creek.
14 And we're also proposing a series, then, of bike
15 and pedestrian pathways that will encircle the
16 entire property.

17 This bike path already exists, and so
18 what we're proposing to do is to connect up with
19 this and to continue it the whole way around the
20 property. Across the bridge, of course, around
21 Atascadero Road, so that there's a complete
22 circuit around the property.

23 We're also improving a series of
24 improvements along the Embarcadero. This shows
25 the City's proposed line of the Embarcadero going

1 out towards Morro Rock. What we're proposing to
2 do is to relocate and get out of our property out
3 this back gate, up along the Embarcadero, and make
4 improvements that are needful for the program, as
5 well as improvements that are consistent with the
6 City's long-term requirements and needs along the
7 Embarcadero here. And, again, of course, across
8 the bridge.

9 We also talked briefly earlier about the
10 rehabilitation of the intake structure. And very
11 importantly is then, as a final part of phase of
12 our project, would be the final grading, of
13 course, and closure of this 13-acre parcel where
14 the power plant currently sits.

15 As part of our MOU we have a commitment
16 to actually open up this 13-acre parcel for
17 nonindustrial uses. So this is a very very
18 important part of our overall -- of the MOU, as
19 well as the project.

20 So let me review a little bit some of
21 the timelines for when all this can come together.
22 So I'll talk first a little bit about the
23 licensing. We hope that will be completed by the
24 end of this year. That's our goal.

25 Tank removal and a bridge --

1 improvements along the Embarcadero could be worked
2 on and accomplished fairly quickly after that,
3 beginning early '02 and hopefully completed
4 sometime in late spring of '02.

5 The construction of the new units to
6 complete the end of '03, early '04. Demolition of
7 existing facilities from the end of '07.

8 And then once we're commercial, the new
9 units, then we're proposing to make those
10 additional enhancements in terms of the
11 landscaping, the intake structure, the bike and
12 pedestrian pathways, the conservation easements.
13 Those bring into closure all this entire
14 additional land use improvements.

15 And here is just a question mark about
16 what the waterfront in the future, the far distant
17 future, actually very near future, could, in fact,
18 -- this is one vision for what that might look
19 like. This is actually from the AFC, itself.

20 I didn't want to skip over one very
21 important aspect of the project, which is what we
22 believe is the powerful benefits of the project to
23 the local economy.

24 There's a series of different ways that
25 this project will provide moneys to local and

1 regional government, and also to businesses. We
2 have a revenue agreement with the City of Morro
3 Bay to help stabilize, enhance their revenue as it
4 provides for a minimum guarantee of \$2 million per
5 year, made up of contribution of the property tax
6 and the outfall lease, and a gas franchise fee.
7 And if that's not sufficient to meet the 2 million
8 then we'll make up the difference.

9 So approximately 20 to 25 percent of the
10 City's discretion budget. The property tax of
11 City and County, 5.5 million. I want to be clear
12 that there's a little double counting on this
13 revenue agreement and the property taxes, because
14 approximately 1 million of this is the property
15 tax contribution to the City.

16 Of course, we have all the moneys going
17 to local vendors for construction, skilled workers
18 in the area.

19 We designed a series of mitigation
20 programs in the AFC. We've got approximately a
21 \$2.2 million program looking at fire protection,
22 police and traffic. Those programs are actually
23 developed as part of the AFC. We can work with
24 the City as part of our MOU implementation to
25 understand what some of these needs and

1 requirements are.

2 We accepted with some had work with the
3 City about the need for some of these fire and
4 police protections, and we actually decided to
5 build into our application to the Energy
6 Commission to make our commitments material and
7 substantive to the community.

8 We've also had -- we've actually
9 established two separate cost reimbursement
10 agreements with the City of Morro Bay. The first
11 ended up being approximately \$600,000 spent. And
12 then we provided, we augmented that for another
13 \$400,000. So all in all, a million dollars to the
14 budget, of which approximately 700,000, if not a
15 little bit more, has been spent to date.

16 And that was a fundamental commitment
17 that Duke Energy made to insure that the City of
18 Morro Bay had the resources to protect and defend
19 their interests as part of this process. So we
20 were very committed to that, we stepped up to
21 build it, we continue to fulfill those
22 commitments.

23 So, overall, if you count all these
24 dollars up you're looking at somewhat over a 15-
25 year period of time, we could have chose 10, we

1 could have chose 20, over \$100 million going into
2 the local and County economy through this project,
3 through these various sources of benefits.

4 One very important message that I wanted
5 to leave tonight was really trying to address the
6 questions like how did we get here. And
7 fundamentally we got here through a lot of hard
8 work.

9 We developed a series of timelines over
10 here to try to capture a little bit of what the
11 process has been. And Greg mentioned a couple of
12 aspects of this. And others have spoken to it, as
13 well.

14 But this has been really a process that
15 started in July of '98 when Mark Seedall came to
16 Morro Bay and worked on these development efforts,
17 helped design the first AFC.

18 We filed that in 1999. We later
19 withdrew that. We made a decision it wasn't on
20 the mark. So we went back to the drawing board
21 and we revised that AFC.

22 We then went into a process of working
23 with the community. Bard and Mark worked very
24 hard with the City Council and members of the City
25 Staff. Decided that the best way to try to get

1 some structure around us was to develop an MOU,
2 and that was put in place.

3 We had numerous workshops and City
4 Council meetings and things that lasted of course
5 a couple months to work on the preapplication
6 phase.

7 We then had to field a very important
8 series of ballot initiatives in November. And
9 onward and onward and finally we felt like we -- a
10 number of things culminated in the summer of last
11 year in terms of announcement of the single phase
12 program.

13 So, that's to kind of give you a sense
14 of just how hard the Duke Energy team has worked
15 to try to make this one of what we think is one of
16 the most impressive power plant projects you're
17 going to find anywhere in the country.

18 And we think we've listened, we've
19 worked hard, we've engaged environmental leaders
20 group, the process with local environmental
21 leaders. We've reached out to the Latino
22 community with some interactions there. We
23 developed materials for the Latino outreach.

24 We've done numerous numerous things
25 which only, I think, partially capture some of the

1 visual wall displays that are over there.

2 So I wanted to make sure we left tonight
3 just trying to emphasize just how much we've
4 endeavored to try to get the local input on the
5 process.

6 In terms of moving forward with the
7 Energy Commission and other agencies and the
8 licensing process, I guess what we're
9 fundamentally looking to and requesting from
10 everyone is, you know, can we make this a process
11 of quick resolution of issues. Can we insure that
12 what we're asked to do is fundamentally in line
13 with what other applicants have had to do
14 elsewhere. But maybe not more for reasons that
15 are not tied to the nexus of the project.

16 Can we recognize that there's an
17 unprecedented nature to this project for planned
18 teardown amidst the energy crisis. This project
19 improves the environment. We have worked very
20 hard in early level involvement with the
21 community.

22 We've worked with the Water Board to
23 move that whole process fundamentally differently
24 than what we were able to do in the Moss Landing
25 project, so we've already had a Water Board

1 workshop, for example.

2 Worked very hard with the Air District
3 to establish a basis and relationship there moving
4 our permit activities forward.

5 And ultimately we're looking for the
6 real nexus in terms of what local, state and
7 federal level requirements.

8 I just want touch upon traffic
9 management just very very quickly, and
10 notwithstanding the City's concerns about traffic,
11 we understand why traffic circulation is
12 important. And we certainly appreciate that.

13 Just wanted to touch upon a couple
14 things that we are doing proactively on the
15 traffic front. It is an ongoing dialogue.

16 One thing we're doing is very important
17 and I want to emphasize, is we're actually working
18 to identify an offsite location. I can't announce
19 that location quite yet. We think we'll announce
20 it very soon. The offsite location will be
21 basically a marshaling facility approximately 78
22 acres that we can use.

23 That offsite location will do a number
24 of things. It will mean that we can bring all the
25 truck deliveries into the offsite location. We

1 can marshal the materials there. And then we can
2 have a trained group of truck drivers, small
3 lorries and maybe a couple bigger lorries, to
4 basically shuttle in and out of the facility in a
5 very controlled way, avoiding peak hours, being
6 trained and sensitized to the school and the
7 circulation paths.

8 We have a traffic officer that's part of
9 our funding proposal. And we're hoping that that
10 person would, of course, coordinate -- being a
11 role to coordinate with us around our delivery
12 schedules and things.

13 We're in a discussion with a local
14 contractor which, we get oriented, across Morro
15 Creek that actually provided the concrete for the
16 first plant. And if we can put the bridge in,
17 what we'd like to do is basically make sure all
18 the concrete, about 2000 concrete trucks, only
19 ferry that direction, over 600 yards, or maybe
20 it's a little bit more, maybe it's three-quarters
21 of a mile, back and forth, kind of keep all that
22 away from the rest of the circulation in Morro
23 Bay.

24 We provided moneys to the City, \$35,000
25 for a traffic study about the round-about. And so

1 a series of other things that we're doing to
2 really address traffic circulation. And we'll
3 continue to work with the City. And I think it's
4 an area that we recognize the importance of. But
5 I just want to emphasize that we are trying to
6 take a very proactive approach on that.

7 And finally I just wanted to emphasize
8 there was one comment about workload, and I always
9 like to anticipate questions, I guess. The peak
10 workload is just a little bit above 800. And it's
11 compressed to about eight months.

12 And I want to emphasize this for a very
13 important reasons, which is one of the fundamental
14 things we did in the summer was to work with the
15 City to define a single phase project, which
16 really kind of compresses everything.

17 And one of the consequences of that,
18 gave this plan sooner, is you're going to have a
19 double shift for approximately seven to eight
20 months. And this shows the distribution of that.

21 I also want to point out that
22 historically this power plant has had outages
23 which have had about 350 people on site, which is
24 about the location of that line. And I don't mean
25 to be facetious but no one's noticed.

1 Okay, so in terms of traffic and what
2 these mean, we're just really looking for some
3 balance. And we'll work hard to try to get the
4 rights facts on the table. But I just want to
5 again emphasize that this level of traffic in and
6 out of the facility for long periods of time, you
7 know, 10, 12, 14 weeks, has never ever -- has ever
8 been noticed, you know, people said, oh, you had
9 an outage last -- so I just want to kind of keep
10 that, you know, make that point.

11 So, anyway, that's the extent of my
12 presentation and I'm available for any questions.

13 PRESIDING MEMBER MOORE: Thank you very
14 much.

15 HEARING OFFICER FAY: Thank you, Mr.
16 Trump. Based on my discussion with the
17 Commissioner, what we'd like to do is move to the
18 staff's issue identification report. And then
19 we'll take a short break, and have people come
20 back with their questions and comments.

21 So, Ms. Lewis, do you want to make your
22 presentation.

23 MS. LEWIS: I lost my roving mike, so I
24 will use this. Can I be heard? No?

25 PRESIDING MEMBER MOORE: Kae, I wonder

1 if it isn't easier for you just to go up to the
2 podium. You probably carry better. And if you
3 can carry your notes up, it's probably easier for
4 everyone.

5 MS. LEWIS: What I'm going to do is to
6 go very quickly through the staff's identification
7 report. I'll just hit the high points. Copies of
8 the report are in the back if you'd like the
9 details.

10 The staff identification report came out
11 on February 9th. The purpose of this report is
12 that staff, as an independent party providing
13 information to the project Committee, the
14 Commissioners, has the purpose in the
15 identification report of informing participants in
16 the process of any potential issues or problems
17 that might arise in this case.

18 They want to provide an early focus or a
19 target for subsequent workshops and data requests.
20 And it's important to note that these issues are
21 not -- that we bring up at this stage are not
22 limiting. Other issues may arise later in the
23 process.

24 For criteria, what makes an issue an
25 issue. An issue arises if we suspect that impacts

1 may be difficult to mitigate. If there's possible
2 noncompliance with federal, state or local laws.
3 Or if there are issues that are potentially
4 contentious among the parties or in the community.

5 Okay, the major issues at this point
6 that the staff has identified as in these areas:
7 Water resources, biological resources, cultural
8 resources, land use, traffic and transportation,
9 and visual resources. At this point we feel that
10 the bulk of these are resolvable.

11 I'm going to start with the first two,
12 water resources and biological resources are
13 related, so I'm going to go between these two
14 slides for a second.

15 The very important issue is on the
16 renewal of the NPDES permit. That is the National
17 Pollutant Discharge Elimination System. That is
18 the process that the Regional Water Board, the
19 Central Coast Regional Water Quality Board is
20 dealing with at the moment.

21 This permit is currently being reviewed
22 by the Board in their role as a regulator of the
23 cooling water intake and discharge under the Clean
24 Water Act.

25 There's two determinations that need to

1 be made in this process. Next slide. First of
2 all, we need to determine if there are significant
3 impacts of the plant on aquatic resources. This
4 determination is being performed by the biological
5 studies on aquatic resources of Morro and Estero
6 Bays.

7 A possible impact may be on a species
8 that has turned up in the collection samples of
9 these studies. And that species is a tidewater
10 goby. It is not determined at this point if we
11 are dealing with an endangered species. If we
12 are, and that determination still needs to be
13 made, ultimately probably by the U.S. Fish and
14 Wildlife Service, if it is, then a process gets
15 put into place by which the plant will have to
16 have an incidental take permit.

17 A second determination that needs to be
18 made involves the renewal of the NPDES permit.
19 And that's the question of is the discharge that's
20 being regulated, is it new or is it simply a
21 renewal of an existing discharge. And because if
22 it is considered a new discharge, then stricter
23 regulations come into play.

24 And the reason why these two
25 determinations are important, you know, is there

1 significant impacts on aquatic resources, or is
2 the discharge deemed new, then the analysis of
3 alternative cooling water sources and technologies
4 become very very important. Because those are the
5 options for mitigating the significant impacts and
6 dealing with a new discharge.

7 Thus far Duke has provided alternative
8 technologies to the Energy Commission and to the
9 Regional Water Board. At this point the Energy
10 Commission would like to do a further
11 investigation, look at additional alternative
12 sources such as reclaimed water, and to look at
13 different technologies such as dry cooling or
14 wet/dry cooling, which alternatives to once-
15 through cooling, the process that they're now
16 using.

17 Okay, now I want to deal with the last
18 issue there, the threat of groundwater well, if
19 you can go back. Thanks. The threat of
20 groundwater well contamination.

21 The Morro Bay Power Plant expects to
22 increase its fresh water use almost fourfold in
23 the construction process. This is fresh water
24 from their onsite wells.

25 In 1999, as I'm sure you all know, the

1 effluent samples at the wastewater treatment plant
2 turned up traces of MTBE. The City wells were
3 closed to keep that source safe, just as a
4 precaution.

5 The City is concerned that when pumping
6 at the power plant for construction increases a
7 substantial amount that groundwater plumes, if
8 they are contaminated, may be drawn towards the
9 City wells, which are in proximity very close to
10 the power plant wells.

11 So this is an issue. We realize that
12 Shell has now agreed to clean up that site, so we
13 will be looking at the planning for that cleanup
14 and what the ultimate impacts may be.

15 The next slide. The next issue is
16 cultural resources. The issue that the staff
17 would like to investigate is the memorandum of
18 agreement which Duke has made with the San Luis
19 Obispo County Chumash Council.

20 The concern here is that Duke has great
21 concerns over Native Americans participating in
22 their process. And to deal with this they had
23 entered into an agreement with the Chumash
24 Council, which basically made them the lead Native
25 American contact. And the staff is expressing

1 concern that this agreement not limit equal
2 participation in this process by other Native
3 American groups and other members of the public.

4 The second MOA issue is the concerns,
5 the ultimate disposition of nongrave cultural
6 resources. There is an item in the MOA which
7 indicates that cultural resources would be
8 reinterred, and the staff would like to
9 investigate options which comply with the state
10 curation guidelines which may permit additional
11 access to cultural resources that are found on the
12 site.

13 Next issue, land use. The first issue
14 is compliance with the City of Morro Bay's
15 waterfront and master plan. There is a question
16 as to whether or not compliance with the
17 waterfront master plan is mandatory. The staff,
18 at this point, considers the master plan part of
19 the City's adopted zoning regulations, which would
20 place it into a category of local ordinance, which
21 requires compliance.

22 Next issue is cumulative impacts by the
23 plant construction with other development
24 projects. The potential problem is the extent to
25 which construction schedules of other projects,

1 other development projects, coincide with that of
2 the plant. And this gets into topics already
3 discussed such as impacts on traffic, demand for
4 construction workers, and demand for City
5 services.

6 The next issue, traffic and
7 transportation, actually quite a bit has been
8 talked about this tonight already. The only thing
9 I'm going to add here is a concern for the
10 transportation of possible hazardous materials,
11 particularly in the demolition phase, because of
12 hazardous materials that may be found in the
13 existing project site, existing buildings.

14 And the last issue, visual resources.
15 Two items here. Issues which take into
16 consideration the highly industrial character of a
17 power plant and its proximity to a City which has
18 a flourishing tourist industry.

19 The AFC did do an analysis of 20 KOPs,
20 or key observation points, locations, and found
21 that in two of those observation points the plant
22 would have negative visual impacts. And the staff
23 would like to discuss the mitigation of these
24 impacts through an effective landscaping and
25 screening plan. This will help avoid any

1 significant impacts in the visual area.

2 The last item, the AFC, introduces the
3 idea of a lighthouse project, lighthouse museum
4 tourist center for the southernmost stack. It
5 indicates that this concept is, while it's not
6 necessarily part of the application, but at this
7 juncture the staff really needs to know
8 definitively if this is part of the project
9 description. If so, we will have to do an
10 analysis of any impacts that retention of a stack
11 would have.

12 So that very quickly is the items that
13 we are presently going to target for
14 investigation. Thank you.

15 HEARING OFFICER FAY: All right. At
16 this time, before we go on, we'd like to take a
17 break and I think when we come back we'll let the
18 applicant comment on the issues report. And then
19 move right into public comment and questions of
20 the staff and the applicant, anybody.

21 We'll see you back in ten minutes.

22 (Brief recess.)

23 HEARING OFFICER FAY: While you're
24 taking your seats I would just like to point out
25 that there may be some confusion among the

1 audience about the difference between the various
2 parties.

3 Duke Energy representatives are sitting
4 over here. And Energy Commission Staff
5 representatives are sitting over there. They are
6 both separate parties.

7 The Committee is represented up in front
8 of you, and the Committee is the decision maker.
9 The staff is a completely separate party. And, as
10 I mentioned earlier, cannot speak off the record
11 to the Committee.

12 I also want to make it very clear that
13 staff is an independent party. They make their
14 own evaluation and their own decision on the
15 various environmental factors. And they will
16 express that opinion in an analysis to the
17 Committee.

18 The Committee may or may not agree with
19 what the staff provides.

20 I also want to make it very clear that
21 the staff workshops that will take place in the
22 next two days are not the same thing as what we're
23 doing tonight. They are informal workshops where
24 the staff will review data requests that they've
25 sent out to the applicant, and discuss them. Make

1 sure things are understood. People will have an
2 informal opportunity to make comments and ask
3 questions. But it is not the same thing as
4 tonight.

5 All right, Ms. Lewis, could you review
6 the staff's proposed schedule?

7 MS. LEWIS: Yes. The schedule's here on
8 the screen, this is the proposed schedule if this
9 project -- the schedule, as proposed, assumes a
10 very typical 12-month schedule.

11 If issues that we've talked about
12 tonight or others arise that can't be resolved,
13 can't be mitigated, then the schedule could
14 possibly take longer.

15 But some of the key dates here are June
16 14th is when the staff would have its analysis
17 wrapped up and be able to provide to file its
18 preliminary staff assessment.

19 It would then go into a public process,
20 and roughly two months later be able to put out
21 its final staff assessment to the public and to
22 the Committee.

23 You'll notice there that a number of
24 different agencies are listed there. There's a
25 bunch of acronyms I'm afraid. Acronyms are all in

1 the issue report, which this schedule is there, as
2 well.

3 And keeping on this schedule really
4 depends on the other agencies, such as the Air
5 District and the Regional Water Board, and PG&E
6 and so forth, being able to do their work and put
7 it into this process in a timely manner.

8 As you see, the last date there, the
9 Commission adopts the decision, that's roughly one
10 year from when this project was deemed adequate.

11 Thank you.

12 HEARING OFFICER FAY: Thank you. And
13 now Duke Energy is going to comment on the staff's
14 issue report and the schedule. Mr. Ellison.

15 MR. ELLISON: Thank you, Mr. Fay. I'll
16 be brief, I know we've got a number of people who
17 want to speak, so I won't go through every issue
18 that staff raised, other than say, first of all,
19 we welcome the staff's investigation of all of
20 those issues. We're very confident that staff
21 will conclude that we are in compliance with all
22 applicable laws, and that there are not
23 significant environmental impacts in each of those
24 areas that are mentioned.

25 Let me simply address two particular

1 things that the staff mentioned. One is the issue
2 of the tidewater goby and whether that's the
3 endangered species version of the goby. We've had
4 two separate independent lab analyses done of this
5 species, and both have concluded that it's not the
6 endangered version. So we're confident that that
7 will be a conclusion there.

8 Staff also asked for clarification about
9 whether the lighthouse that's mentioned in the AFC
10 is something that's been discussed as a part of
11 this proposal. It is not part of Duke's proposal.
12 And is not part of this project. We are not
13 proposing to preserve one of the stacks as a
14 lighthouse. We're proposing to take all three
15 stacks down completely as Mr. Trump described.

16 With respect to the schedule, I would
17 take very slight issue with one thing Ms. Lewis
18 said about the schedule, which is what you see up
19 there, what you did see up there, it's gone now,
20 is the maximum amount of time by law that the
21 Energy Commission is supposed to take in reviewing
22 these projects.

23 We would believe that this project, as
24 the Energy Commission Staff and Commissioners
25 know, I've done several of these now, this project

1 really is unique. In the preapplication process
2 that we've already discussed, and the amount of
3 work that has gone into this application, not just
4 by Duke, but by the City of Morro Bay, in
5 particular, who has worked very closely with us in
6 resolving a number of issues before we even come
7 through the door. And the amount of public
8 outreach that has gone on.

9 And I think one of the anticipated
10 benefits of that is that a number of issues that
11 would ordinarily have to be resolved in the Energy
12 Commission process have already been resolved
13 within the City of Morro Bay's process.

14 And for that reason we're hopeful that
15 we can do better than the schedule that was
16 described up there, perhaps substantially better.
17 We'll be working with the Committee and all the
18 parties as we go downstream to see if we can't
19 make that happen.

20 The last thing I wanted to mention is
21 that Mr. Trump is going to be providing to Ms.
22 Mendonca, the Public Adviser, a video in Spanish
23 that describes the project. And if there is
24 anybody watching or any members of the public that
25 are interested in a description of the project in

1 Spanish, that is available.

2 PRESIDING MEMBER MOORE: Thank you, Mr.
3 Ellison.

4 What I'd like to do as we move into
5 public comment, I'd like to open that with a
6 couple of remarks.

7 First of all, some people were asking me
8 during the break about the relationships of the
9 Commissioners up here and staff. And let me just,
10 for your own edification, tell you that Mr. Fay is
11 our Hearing Officer, he's my alter ego in this
12 case. And he, in my absence, can run the hearing
13 and does run the hearing. And the reason that he
14 speaks for the Committee is that it is his
15 guidance and direction that gives us the
16 continuity that we have during these hearings. So
17 he will be present at every one of the hearings
18 that we conduct.

19 I expect to be there for all of them.
20 Commissioner Keese may also be there. Mr. O'Brien
21 is here representing Commissioner Keese, and
22 taking copious notes on everything that's said so
23 that he can inform his Commissioner, who will then
24 be in a position to make responsible comments as
25 we prepare the final document.

1 And Mr. O'Brien will be present in those
2 deliberations and will, I'm sure, feel free to
3 voice his mind about the observations that he's
4 had. And he, may, in fact, during the course of
5 these deliberations ask questions as would his
6 Commissioner. And he has that privilege and
7 frankly, that responsibility, to ask questions and
8 to inject himself into the fray, so to speak.

9 We will make a recommendation to our
10 fellow Commissioners about approval or disapproval
11 of the project at the end through the proposed
12 decision.

13 But I want to tell you, also, that the
14 Energy Commission is responsible for the ongoing
15 life of this project, and that we maintain a
16 compliance staff which was mentioned briefly
17 earlier. But I want you to know that we literally
18 are overseeing the compliance of conditions that
19 the applicant and developer agree to and sign on
20 to for the life of that project, and that they're
21 responsible for. And we are the responsible state
22 agency that looks over them, not just through this
23 year-long process, or shorter, but in terms of its
24 entire lifespan through the operating permit.

25 And I also want to note that you've seen

1 us with these blue cards. The Public Adviser has
2 passed them out. It's our way of trying to
3 understand how many people want to speak. In this
4 case we have 34 people who have signed a blue card
5 indicating that they would like to speak. That's
6 a fair number of people.

7 The Public Adviser would like you also
8 to know that there is a white eight-by-ten or
9 eight-and-a-half-by-eleven sheet of paper back
10 there that if you don't want to speak, but you'd
11 like to make sure that your comments get in to us,
12 you can use that to sign up and give us something
13 that's in writing. So those are both on the back
14 table, and we encourage you to use them.

15 These discussions tonight are the
16 prelude to a series of very formal hearings that
17 will take place. Right now, although I know about
18 this project and I've certainly now had some
19 explanation from the applicant, and from staff,
20 who are an independent party, as you've heard, in
21 this proceeding, frankly officially I don't have
22 any information. I don't have a position. I've
23 not taken a position, and I won't take a position
24 until the end, until we close all the evidentiary
25 hearings.

1 And that means that formally I don't
2 have anything in front of me for anyone to comment
3 on, not really, because I don't have any evidence.
4 And the way our system works here is that we will
5 take formal testimony and formal evidence over the
6 course of these hearings in which we'll invite the
7 public to comment, positively, negatively, with
8 questions, or otherwise.

9 But right now, I don't have any evidence
10 for anyone to refute. I don't have anything for
11 anyone to, other than the general project, I don't
12 have any air quality facts, I don't have any water
13 quality facts for anyone to say that's true,
14 that's a lie. None of those things have been laid
15 on the table yet.

16 So what we'd like to do is to allow you
17 to make comments in general to us, or ask
18 questions, this is the time for you to have the
19 applicant or staff elucidate a point and offer
20 some clarification about the process or what's
21 going on.

22 But what we don't need tonight, because
23 there will be time, plenty of time for it later
24 on, is we don't need a diatribe about why you
25 don't like this or think it's the wrong thing in

1 the wrong place at the wrong time. If you want to
2 make a very general comment that way, that's fine.
3 But to interrogate someone or to offer a
4 castigation of some position that someone's taken
5 out in the public before is not really a proper
6 point for tonight's hearing.

7 We're interested in your opinion,
8 certainly. But, as you can see, with 34 people
9 lined up to speak, or 35 now, we're going to have
10 to rein this in fairly tightly. So I'm going to
11 suggest that no speaker take any more than three
12 minutes. And hopefully a little bit less.

13 Let us know what's on your mind, if you
14 have concerns about issues that you think should
15 be elaborated on during the course of these
16 hearings, I want to absolutely hear that. And
17 staff will be, I know, taking notes and thinking
18 about that as they prepare their own testimony
19 later on.

20 So, with those caveats, I'll say we're
21 going to welcome your comments. And we have a
22 couple of people who have to leave early, and I'm
23 going to try and accommodate them.

24 And then we have some public officials
25 who'd like to address us, and we're going to

1 accommodate them. And we'll get through the rest
2 in no particular order. We've not stacked
3 anything, all the pros, all the cons. Right now
4 I'm assuming that those don't exist yet, because
5 we don't have any facts in front of us.

6 So let me turn then to Julian Crocker,
7 Superintendent. Good evening, Mr. Crocker.

8 DR. CROCKER: Thank you. My name is
9 Julian Crocker. I'm the County Superintendent of
10 Schools in San Luis Obispo County.

11 My comments are extremely brief. I'm
12 here to speak in support of the efforts of Duke
13 Energy, as they have shown to be an extremely good
14 corporate citizen on a local basis.

15 Specifically my office is concerned with
16 the education of 35,000 K-12 students in our
17 County. And more specifically we are very much
18 involved in environmental education within our
19 County.

20 Celeste Royer, who is our Coordinator of
21 Outdoor Education and Environmental Education,
22 will speak briefly after me.

23 Just in closing I would say that from my
24 perspective, anyway, Duke has demonstrated that
25 they indeed take their corporate citizenship

1 responsibility very seriously. They've made
2 contributions not only of money, but also time, to
3 our effort.

4 I am particularly interested in two of
5 their efforts. One, teacher education, which is
6 no small effort. It's an intense effort and one
7 over the long time. And secondly, their
8 willingness, in fact, to consider using this
9 modernization project as a good teaching
10 opportunity, not only for students to learn about
11 energy and all the aspects of energy production,
12 but also the myriad of environmental issues.

13 So I'd like to ask -- I think probably
14 on your list there Celeste Royer will follow me.
15 Thank you.

16 PRESIDING MEMBER MOORE: Thank you, Mr.
17 Superintendent. Ms. Royer.

18 MS. ROYER: Good evening, Celeste Royer
19 from the San Luis Obispo County Office of
20 Education. Thanks for giving us a chance to speak
21 tonight. I'll make my comments brief, as well.

22 But I do want to say that Duke Energy is
23 a new corporation to California and also to the
24 residents of the central coast. And when I first
25 heard that Duke Energy would be purchasing the

1 Morro Bay Power Plant from PG&E, I immediately
2 contacted their public relations representative to
3 find out about the company and the way that they
4 do business.

5 So in February of 1998 I had the chance
6 to meet with Tom Williams, and learn a little bit
7 about Duke Energy, its mission and its goals as a
8 corporation.

9 Likewise I was able to describe to him
10 the goals of the Rancho El Chorro Outdoors School
11 and the mission and vision of the San Luis Obispo
12 County Office of Education.

13 As Dr. Crocker said, I'm the Coordinator
14 of Outdoor and Environmental Education, and manage
15 the outdoor and education programs for our office.

16 Each year the Rancho El Chorro Outdoor
17 School serves about 10,000 students, both
18 elementary and secondary, and we provide all the
19 District's environmental education programs for
20 their students, as well as a number of districts
21 outside of our County.

22 These services are made possible with a
23 great staff that I have, a beautiful 250-acre
24 campus and facility, a solid standards-based
25 curriculum, and the outstanding partners that we

1 have in our local community. Duke Energy is one
2 of those partners.

3 In the short time they have been here I
4 have found their staff to be professional, honest
5 and open to suggestions from the community. They
6 have been excellent neighbors. The Duke Staff has
7 been involved in many projects and has made a
8 commitment to support numerous educational and
9 environmental efforts in our community, either
10 with staff time and/or financial contributions.

11 I have been personally involved in
12 several of the projects. Specifically the program
13 that I manage, the Rancho El Chorro Outdoors
14 School, Duke has been a generous contributor to
15 our programs, which again serve numerous students.

16 They have participated and supported the
17 California Regional Environmental Education
18 Community Network in our region. This network
19 provides a valuable link between kindergarten
20 through 12th grade educators, and a myriad of
21 environmental organizations and EE providers with
22 a goal of creating a more literate student
23 population.

24 Irvin Potee, who is one of the Duke
25 Energy chemists, has given his time; he has shared

1 his knowledge; and helped support the biannual
2 conference which we held last fall here in Morro
3 Bay.

4 Duke has supported the attendance of a
5 team of teachers to evaluate their teacher
6 workshop program developed and offered to teachers
7 in North and South Carolina. A team of five of us
8 went to North Carolina this past summer to
9 evaluate that program.

10 As a result of our participation in this
11 teacher workshop, Duke will now support the entire
12 eighth grade student population of about 225
13 students from the Los Osos Middle School in a one-
14 day hands-on ecology field trip at the Rancho El
15 Chorro Outdoor School. And that will take place
16 next month.

17 And we are using the materials that
18 these teachers developed in North Carolina. This
19 will hopefully support and pave the way for our
20 office to work with Duke to provide teacher and
21 student education and awareness in environmental
22 education.

23 I've also had the opportunity to be part
24 of the environmental leaders group, and I know
25 Andy mentioned that one in his presentation. The

1 ability to participate in a two-way exchange about
2 the modernization of the Morro Bay Power Plant has
3 proven to be of great value to me, as well as to
4 the San Luis Obispo County Office of Education.

5 The information presented at these
6 monthly meetings has enabled me to remain informed
7 about the progress of the modernization project,
8 as well as pass on scientific information to other
9 County Office employees and the constituents we
10 serve.

11 Duke Energy is poised to help California
12 meet its energy needs. The modernization of the
13 Morro Bay Power Plant is critically needed, and I
14 believe that Duke Energy has developed a solid
15 plan that is cost effective, environmentally
16 sound, and economically good for Morro Bay and
17 California.

18 I urge you to support the modernization
19 plant for the Morro Bay Power Plant. We need to
20 produce electricity for our citizens. We need to
21 preserve and protect our environmental resources.
22 We need a strong tax base. We need a responsible
23 corporation like Duke Energy producing power here
24 along the central coast.

25 So, I thank you for your willingness to

1 listen to members of the Morro Bay community, and
2 I have some information listed on my letter,
3 should you need to contact me further.

4 Thank you very much.

5 PRESIDING MEMBER MOORE: Thank you very
6 much. Appreciate your comments.

7 Cathy Boyce who is here representing
8 Jack O'Connell, is Cathy still here? She's not,
9 but Roberta is coming up, which must mean that
10 she's left a statement.

11 MS. MENDONCA: Yes. Senator O'Connell
12 left a very nice letter addressed to Chairman
13 Keese and to you, as well, and wanted to thank the
14 Commission and the Commission Members for coming
15 to the district, and to discuss the future of the
16 Morro Bay Power Plant, and the application that's
17 been submitted.

18 He brings to mind that California's in
19 dire need of immediate power generation, and in
20 light of the critical energy crisis facing
21 California he urges the Commission to take swift,
22 appropriate measures within the guidelines of the
23 California Environmental Quality Act, to move this
24 and other much needed power generation projects
25 forward in a timely fashion.

1 With this again in mind, he welcomes the
2 Commission to the central coast and thanks you for
3 the herculean effort you have undertaken to
4 address California's energy crisis.

5 And I will enter this letter in the
6 record.

7 PRESIDING MEMBER MOORE: Thank you very
8 much, Ms. Mendonca.

9 MS. MENDONCA: It was signed, excuse me,
10 Senator Jack O'Connell.

11 PRESIDING MEMBER MOORE: I was hoping it
12 was.

13 (Laughter.)

14 PRESIDING MEMBER MOORE: Richard Macedo,
15 Staff for Supervisor Bianchi. I'm sorry your
16 Supervisor couldn't be here, but I understand
17 there are hearings tonight?

18 MR. MACEDO: Yes, the Board of
19 Supervisors meets on Tuesdays, and we never know
20 when they're going to end, so I'm not sure when
21 they ended today, but --

22 PRESIDING MEMBER MOORE: I have very
23 clear memories of those, so, thank you.

24 MR. MACEDO: Thank you. Welcome and our
25 comments are brief, also.

1 Duke Corporation has been very open with
2 the County and its representatives from the
3 planning and engineering department, and has
4 responded to all our requests for information.

5 We know that cooperation between the
6 corporation and the County will continue for any
7 additional required information that may be
8 required from any of the County Departments that
9 are involved with this from a County standpoint.

10 If there are any issues remaining that
11 our office can assist with, we would be glad to
12 facilitate any meetings in the future at anytime
13 as this process goes forward.

14 So, thank you very much.

15 PRESIDING MEMBER MOORE: Thank you. We
16 will appreciate working with your Supervisor.

17 I know that the Vice Mayor was here and
18 when she returns I'll see her and ask her to
19 speak. Another Councilman was here, and I'm not
20 sure if he's still here and would like to speak?
21 Okay.

22 We have Rhonda Vigil, Administrator of
23 the Chumash Council.

24 MS. VIGIL: I apologize, mine might be a
25 little long. I would ask that --

1 PRESIDING MEMBER MOORE: By the way, if
2 you have written comments, we have a docket that
3 we receive those in, and then everyone gets copies
4 of them. So, if you want to summarize your
5 comments and then make sure that we get the
6 written comments, we'll make sure everyone gets
7 them.

8 MS. VIGIL: If you want to do that?

9 PRESIDING MEMBER MOORE: Sure.

10 MS. VIGIL: I would like to read it, but
11 if that's the way you want it done.

12 PRESIDING MEMBER MOORE: Whatever is
13 easiest for you.

14 MS. VIGIL: I have comments from Elder
15 Mary Traeho, who asked me to speak for her. And
16 then I have comments on my own, so.

17 PRESIDING MEMBER MOORE: Okay, go ahead.

18 MS. VIGIL: Okay. This is Mary's:
19 Greetings and welcome to our home. Mary Traeho
20 has given me her statement to pass to you, and
21 with your permission I will read her feelings to
22 you.

23 Mary Traeho is one of our treasured
24 Elders with a wealth of invaluable knowledge. She
25 attended most of the meetings that we had with

1 Duke Energy, and is well aware of their plans. I
2 must say that to have the chance to listen to Mary
3 as well as other Elders is something to treasure.

4 Mary grew up in the care of her Chumash
5 grandmother and her grandmother taught her about
6 the importance of the Chumash culture. She has
7 been quite devoted to the protection of our
8 culture for many many years.

9 She, along with the rest of the Council,
10 have the same concerns about Mother Earth and all
11 that come with it. Mary has told us of how Morro
12 Bay has always been sacred to her and the Morro
13 Rock is a shrine for the Chumash culture.

14 She was here when they dynamited part of
15 the sacred rock and played a role in stopping this
16 outrageous act. Since a child, she can remember
17 going to the rock with horse and buggy and
18 listening to her grandmother's stories of this
19 place.

20 Mary also had a wish to start an
21 organized global council for the Chumash so that
22 we can protect even more. Along with Chief Mark
23 Vigil and many others, we have accomplished this.

24 She feels that Duke Energy has been very
25 understanding about our concerns. She feels that

1 if this plant is approved that our MOA with Duke
2 is the best way to go. She said that she does not
3 understand why people would want to move this
4 plant to a different location since it has already
5 been there for years, and to move it will possibly
6 destroy one of our sacred areas, one of our other
7 sacred areas.

8 She also feels that the new plant would
9 be better than the old plant, and that Duke has
10 been very understanding about what we want. We
11 have to say that Mary is one of the most
12 interesting people we have had the pleasure to be
13 friends with, and we listen and respect Mary's
14 experience and knowledge.

15 We hope that you get the chance to
16 listen to Mary. She has a lot to offer you if you
17 are interested.

18 One last thing that we have to say is
19 that Mary is the Clan Mother for our Council.
20 Mary has also brought with her one of her most
21 treasured people, her granddaughter, Bailey
22 Traeho, who is eight years old and got tired and
23 had to go home. Sorry.

24 Bailey asked if she could attend today.
25 We have many young people in our Council who are

1 also very interested in learning. This pleases us
2 greatly to know that our next generation are being
3 involved and learning so that they can carry on
4 when we can't.

5 Thank you.

6 And then I have another one. You have
7 my name already, so I will speak now on my
8 feelings of what is, in my opinion, important to
9 the San Luis Obispo County Chumash Council.

10 It is important that all issues
11 concerning cultural resources be protected. My
12 husband put the protection of cultural resources
13 before himself for over 20 years. Now that a
14 Council was formed a few years ago, he was voted
15 Chief.

16 He and I, along with many others, have
17 spent countless hours to insure the sacred
18 remains, cultural sites, the environment and
19 wildlife get the proper respect and protection
20 that it deserves. It seems selfish, but it was
21 our ancestors' responsibility to caretake Mother
22 Earth, and it was taken away from the Native
23 Americans. And we want it back.

24 This project, the Duke Energy project,
25 is one that we have spent months and months on,

1 making sure that before we entered into an MOA
2 with them, that Native American concerns were
3 addressed and agreed upon.

4 Duke has been very interested in our
5 concerns, and we believe we have come up with the
6 best plan for protection of our sacred issues.
7 They provided facilities to us so that we could
8 bring together all Native Americans from other
9 groups to discuss and relay their concerns to all.
10 We contacted other groups and invited them to meet
11 with us to make sure that all was addressed.

12 Unfortunately, we did not have the
13 turnout that we would have hoped so that we could
14 discuss every issue. In fact, only two
15 individuals made it to the meeting. And one left
16 before the meeting began. We tried every way
17 possible to get the most input that we could.

18 After all this was done, we entered into
19 an agreement with Duke as the conduit for the
20 Native Americans, only after we were satisfied
21 that all of our concerns were met.

22 The Duke Power Plant is a very sacred
23 area to our people, as well as the Morro Rock,
24 because it is a sacred shrine for our people, and
25 has been for thousands of years. Since we do not

1 have the decision as to whether or not this plant
2 modernization is approved, we address the best
3 protection, if it is approved.

4 It is our feeling that if approved it
5 should remain in the location that it is now
6 because if it is moved, we are taking a huge risk
7 of impacting yet another possibly undisturbed
8 sacred area, and we do not want this to happen.

9 Also, after hearing from experts, we
10 believe that this modernization will be of less
11 impact than the current procedure is now. It was
12 a very difficult decision to make, but we are
13 convinced that this is the best way, if approved.

14 Duke Energy helped us in a way by
15 letting us know that they and a lot of people do
16 not understand the importance of our culture. And
17 that we need to educate more people about our
18 culture and concerns.

19 I have made this statement before and
20 people tell me that after they hear it, it makes
21 them look at our concerns differently. The
22 statement is that if you could think of your loved
23 ones that have passed on being dug up, crushed and
24 thrown like rubbish, would you like it or stand
25 for this happening. We hope that your answer

1 would be that you would not like it at all.

2 It is hard for nonNative Americans to
3 understand our religious beliefs, but the Chumash
4 believe that once an ancestor's sacred remains are
5 disturbed, their souls will no longer rest in
6 peace. The best we can do is rebury the sacred
7 remains and give them offerings and prayer.

8 I have watched my husband come home
9 after a burial is disturbed, and he is drained and
10 stressed for days. We need more people like Duke
11 to listen and understand our beliefs.

12 We thank you for being one of those
13 groups who is concerned, and please, if there is
14 anyone of Native American descent who still want
15 to contact us with concerns, please do it. We do
16 not know if we do not hear from you.

17 We also speak for those who cannot speak
18 for themselves, our majestic living creatures who
19 share Mother Earth with us.

20 Thank you for taking the time to listen.

21 PRESIDING MEMBER MOORE: Thank you, Ms.
22 Vigil, we appreciate the comments.

23 Chief Vigil, Chief, are you here? Good
24 evening.

25 CHIEF VIGIL: Good evening. My name is

1 Mark Vigil, I'm the Chief of the Obispo Chumash.
2 I'd like to thank my wife, she did an excellent
3 job. And I'd like you people to meet Mary Traeho.
4 Mary, would you please stand up, please? This is
5 our Clan Mother, Mary Traeho.

6 My heart is kind of a little bit upset
7 right now, it's kind of a tearjerker from my wife,
8 what she said. But I've been working cultural
9 resource for over 22 years, and the main thing
10 that the Native American people want is to protect
11 our archeological sites. And this is what we
12 wanted, this is what all the meetings that we have
13 met with Duke Energy.

14 Certain things they promised. We signed
15 an MOA with them. The Native Americans are very
16 pleased with this. We are very happy with this.
17 And I'd like to thank everybody that participated
18 in this, thank you, people, thank you very much.

19 PRESIDING MEMBER MOORE: Thank you,
20 Chief, and thank Ms. Traeho for coming. That's
21 quite an honor to have her here. Thank you.

22 Tarren Collins.

23 MS. COLLINS: Good evening, my name is
24 Tarren Collins. I'm the attorney for the San Luis
25 Obispo County Chumash Council. And I appreciate

1 the opportunity to speak on cultural resource
2 protection.

3 As you've heard, the Chumash have been
4 here for thousands and thousands of years, and
5 Morro Rock is a sacred area for them. And you've
6 heard that Mary Traeho has been involved in the
7 communications and the meetings.

8 I've had the opportunity to learn from
9 Mary Traeho how her people would use the rock for
10 ceremony and also to observe the birds flying on
11 the ocean. That's how they could tell where the
12 fish were to go out in their canoes and fish.

13 There's much that's really important.
14 And what I've learned is that part of the
15 sacredness to the Chumash is where the places are.
16 And you've heard also that the Chumash are
17 actively working to protect their cultural
18 resources.

19 When we learned that Duke planned to
20 modernize their plant back in September of 1999 I
21 wrote a letter which the City of Morro Bay
22 included in its first response to the first AFC,
23 describing the concerns of the Chumash Council.
24 And also describing the concerns that the studies
25 weren't adequate at the time.

1 There are studies such as geoarcheology
2 and alluvial soils and previously disturbed soils
3 which give a much greater indication of where
4 buried resources will be located. If you only do
5 a survey you have a 50 percent chance of not
6 having any located, as I guess only 50 percent of
7 those buried resources will have any surface
8 indication.

9 After complaining at many City Council
10 meetings, Duke set up a series of meetings with
11 us, starting in January of 2000. This process
12 went on for eight months. It was a tough process.
13 There was a lot of educating to do.

14 During that time the Chumash Council was
15 able to convince Duke Energy that in order to have
16 any understanding of what the impacts of their
17 proposed plant might be, they needed to perform
18 geoarcheological studies, they needed to perform
19 further studies on the surface with a trained
20 cultural resource person. And they chose Mark
21 Vigil to do that.

22 They also included the geoarcheologist.
23 They also included the examination of geotechnical
24 boring cores to find geoarcheology which these
25 core samples were sent to a laboratory.

1 From the extensive studies during the
2 eight-month negotiations, before the end of that
3 negotiation it was determined that none of the --
4 there were no known cultural resource sites or
5 resources that would be impacted by the proposed
6 modernization.

7 And, in fact, when Duke agreed to
8 protect the known sites and cultural, the
9 important areas on the plant property, and also
10 agreed to further protections as outlined in the
11 memorandum of agreement, and the ongoing
12 involvement of the Chumash for the life of the
13 plant, which obviously you have jurisdiction over,
14 too, the Chumash agreed to enter the memorandum of
15 agreement.

16 This was a tough process. It was not
17 done lightly. And I appreciate being able to
18 speak, thank you.

19 PRESIDING MEMBER MOORE: Thank you.
20 Michael Multari.

21 MR. MULTARI: Good evening. Thank you
22 for holding the workshop and welcome to Morro Bay.
23 I'm Mike Multari. I'm the Program Director for
24 the Morro Bay National Estuary Program.

25 Morro Bay is the first California

1 estuary. It is one of only 28 national estuaries.
2 The reason that this place has been so designated,
3 of course, is because of the remarkable ecological
4 value of the Bay.

5 NEPs, that is the National Estuary
6 Programs, are created by Congress pursuant to the
7 Clean Water Act. The program's function is not
8 regulatory; that's the role of folks like you.
9 But rather we facilitate cooperation among
10 federal, state, local government agencies,
11 nonprofits, businesses and the public in order to
12 improve water quality and the ecological
13 conditions of the Bay.

14 The applicant's experts have suggested
15 in other materials, including the AFC materials,
16 that a volume equal to about 5 to 10 percent of
17 the water that passes through the Bay each day
18 with the tidal flow is run through the plant. I
19 have the privilege of working in an office that
20 overlooks the Bay, and I can assure you that
21 that's an awful lot of water that moves in and out
22 every day.

23 By one estimate trillions of gallons of
24 water will be run through the plant during its
25 lifetime. And, of course, it's not just water,

1 it's that biotic soup that I've called it before
2 in other venues that makes estuary so valuable.

3 I believe that Duke's plant can be a
4 good neighbor to our estuary. But common sense
5 suggests to us that it will have an impact, too.
6 We appreciate the good work done by your competent
7 staff and by the experts that you've retained, as
8 well as those by the Regional Water Quality Board
9 who are working on the technical working group.

10 And we await the assessment of impacts
11 and the mitigations that they suggest. I've
12 submitted some specific questions via email to
13 your staff at the data adequacy stage. And we're
14 told that they would be addressed now in the
15 discovery stage. So we look forward to the
16 process before us.

17 Thank you very much.

18 PRESIDING MEMBER MOORE: Thank you.
19 Look forward to your participation.

20 HEARING OFFICER FAY: If I can --

21 PRESIDING MEMBER MOORE: Mr. Fay.

22 HEARING OFFICER FAY: -- just insert,
23 also, from the Moss Landing Power Plant that Duke
24 proposed and received a license for, we learned a
25 great deal about oceanside siting. And one of the

1 great ideas that was part of the licensing was the
2 technical working group. That's been revised
3 again in this case.

4 And I encourage everybody concerned
5 about marine biology to stay informed about the
6 work of the technical working group, because they
7 will be establishing the parameters that will be
8 used for the studies, the 316A and 316B studies
9 that will evaluate the entrainment and also the
10 thermal impacts.

11 MR. MULTARI: Yes, sir, I've had the
12 privilege of observing the technical working group
13 a few times. And I think you have some very
14 competent people working on this problem.

15 Thank you.

16 PRESIDING MEMBER MOORE: Thank you very
17 much. Chuck Meissner.

18 MR. MEISSNER: Good evening. I'm Chuck
19 Meissner, a resident of Morro Bay.

20 I am a supporter of the Morro Bay Power
21 Plant modernization. I am one of over 63 percent
22 of the voters in this City that voted for
23 proposition P, which asked the City Council to
24 proceed with the program in support of Duke.

25 There are good and substantial reasons

1 for this community to support this project. From
2 the need of a strong industrial and economic
3 presence in the community to the need of the State
4 of California for more electric power, as well as
5 the need of our nation for adequate energy for
6 national defense now and in the future.

7 This is our opportunity to contribute to
8 and benefit from electrical generation in this
9 community.

10 As demonstrated by recent determination
11 to bring recompense from a major corporation for
12 damage to our environment, the City leaders have
13 proved themselves worthy stewards of our trust.
14 Perhaps the lack of great numbers of power plant
15 supporters at these proceedings is the best
16 indication of all that the people of Morro Bay
17 feel comfortable with our present leadership
18 representing us in the work at hand.

19 Speaking for myself and many who are not
20 here, I urge that the work go ahead with all due
21 haste, and I thank the Alliance for taking the
22 watchdog role, only reminding everyone of
23 Parkinson's Fifth Law. Delay is the deadliest
24 form of denial. We need neither delay nor denial.

25 Thank you.

1 PRESIDING MEMBER MOORE: Thank you for
2 the comments. Patti Dunton.

3 MS. DUNTON: Good evening, and thank you
4 for coming to Morro Bay to hear issues that we
5 have on a personal basis. We appreciate that.

6 My name is Patti Dunton. And I want to
7 make one thing clear. The San Luis Obispo County
8 Chumash Council does not speak for me or my
9 family, or other Chumash People and their
10 families. They just speak for themselves.

11 I am a member of the Plainas Salinan
12 People. Our lineage has been verified and
13 connects our blood ties to prehistoric village
14 site in San Luis Obispo County. We are registered
15 with the Native American Heritage Commission as
16 most likely descendants for the Morro Bay area.

17 We have become concerned with the
18 project from day one because of the cultural
19 resource issues. We believe the Duke application
20 in this area to be grossly inadequate. We believe
21 the members of the Native American community which
22 Duke has employed for this project have not
23 submitted proper lineage verification to legally
24 tie them to the Morro Bay area.

25 I support the staff's inadequacies found

1 within this area. I will also be making more
2 recommendations on Thursday during the workshops.

3 My brother, John Birch, will be having
4 the Native American Heritage Commission act as
5 intervenor on his behalf during the CEC process.

6 Thank you very much.

7 PRESIDING MEMBER MOORE: Thank you for
8 your comments, ma'am, we'll look forward to your
9 participation. Appreciate it very much.

10 I understand the Vice Mayor has
11 returned. Ms. Peters, would you like to make a
12 couple of remarks on behalf of the City?

13 VICE MAYOR PETERS: Sorry, I hadn't
14 planned on this. I guess what I would like to say
15 is to again express our gratitude for your having
16 the hearings here. It means a lot. Our community
17 has worked very hard on this project for a long
18 time. And to be able to express our views here is
19 a lot easier than trying to get to Sacramento. So
20 that means a lot to us.

21 I think that the project, as it is
22 unfolding, is something that is still a work in
23 progress, but I think that the progress can be
24 directed properly so that it can be a project that
25 is an advantage to the state and also to this

1 community.

2 And I'm hoping that through these
3 hearings, especially the technical reviews on the
4 environmental issues, that that will be achieved.

5 So, I thank you for being here.

6 PRESIDING MEMBER MOORE: Well, thank you
7 very much. And I want to assure you, on behalf of
8 the whole Commission, that we intend to work very
9 very closely with the City, and we're very
10 respectful of local municipal rights. So we bear
11 that in mind every hearing that we have.

12 VICE MAYOR PETERS: We appreciate that.

13 PRESIDING MEMBER MOORE: Thank you.

14 Joan Carter.

15 MS. CARTER: I'm a resident of Morro Bay
16 and a property owner, and I've been 20 years in
17 this County. I'm not active in the Coastal
18 Alliance, but I'm keeping myself informed. And I
19 really appreciate that the Coastal Alliance is
20 doing all this work. They're looking into the
21 issues; they're bringing forth information that
22 the citizens need to know about this project.

23 The City has not been too concerned
24 about water and air, and they seem to have
25 prematurely decided in favor of the project.

1 In this past Sunday L.A. Times they
2 published a poll that showed the public is deeply
3 skeptical and very nontrusting of energy companies
4 in California with all the maneuvering over the
5 past months.

6 By a ratio of 64 to 24 percent they are
7 opposed to steps that would ease pollution
8 controls or environmental standards to increase
9 electricity supplies. And by a ratio of 60
10 percent to 16 percent the citizens are unhappy
11 with the public PUC. If I were polled I would be
12 among the majority that's disapproving.

13 So I think we need to be very cautious
14 and very thorough in this plant certification
15 process. Thank you.

16 PRESIDING MEMBER MOORE: Thank you,
17 ma'am, we appreciate your comments. Ed Ewing.
18 Mr. Ewing, are you here? Good evening.

19 MR. EWING: Good evening, Commissioner,
20 my name is Ed Ewing. I'm a local fisherman. I've
21 been here since 1968. Probably two-thirds of my
22 time on the beach has been spent right on the
23 waterfront in front of the power plant. I tie my
24 boat up, and a lot of times I'll live on my boat
25 in the off-season.

1 Now, I have had no problems with the
2 plant. There are some concerns. They did come
3 and address the commercial fishermen. We didn't
4 have a vote on it, the Association, but we did
5 discuss it amongst ourselves. And I didn't come
6 out with any negative feeling at all from the
7 fisherman. We have other areas.

8 There were some people that were
9 concerned about the estuary. We discussed it and
10 we decided that really the plant's impact on the
11 estuary would be minimal compared to some of the
12 other impacts that are there, such as farm
13 siltation going down into the Bay, and a multitude
14 of other causes, runoff from the rain water, the
15 streets, and some of the management authorities
16 the way that they manage things.

17 We speak about the Chumash, when they
18 were here they probably kept the sea lions and
19 harbor seals in check. You know, they used to,
20 because of their skins, you know.

21 Well, now they may not have much to do
22 with the plant, but as far as the estuary is
23 concerned, there are some major changes brought
24 about by environmentalists and environmental
25 concerns without regard to what happens down the

1 road.

2 Now, we're concerned about the plant,
3 but our concerns are a lot less than some others.
4 And I generally, myself, particularly support the
5 plant and the idea. If, in fact, air pollution is
6 going to come down with the new plant, and the
7 water outfall is going to be less water used, and
8 less temperature, I would support the plant, if
9 that's a matter of fact.

10 And if that's the finding this
11 Commission has, I would support it right on down
12 the line. In fact, economics being what they are,
13 if the regulatory process gets too bad, and the
14 economics get a little worse, and Duke decides not
15 to build the new plant, what are we stuck with?
16 We're going to have this plant for another 20
17 years, which puts out more pollution and does
18 more damage.

19 So I can't see not supporting the plant
20 as far as environmental standpoint would go. It
21 sounds like a pretty good plant to me.

22 And I think that there's some issues
23 here, such as groundwater. We're now on the state
24 water here, and if Duke Power needed to use more
25 water, they could probably pay the state for a

1 little more water down the pipeline. Or, if they
2 didn't want to use water from the wells during the
3 construction process, they could probably fire up
4 the City's desalination plant and use that and fix
5 that. It's been sitting there idle for a long
6 time.

7 There are solutions to this. And the
8 discharge for permit process, is it a new
9 discharge? I don't think so. What are they going
10 to do, they're going to use the same pumphouse,
11 they're going to discharge it out the same place,
12 they're going to use less water. And anytime they
13 shut this plant down for an outage, as existing
14 now, they use less water anyway. So, what's the
15 difference.

16 I mean there are some issues that are
17 being raised that sound rather foolish to me. I'm
18 glad there are people looking into them and
19 checking. And that's, I guess, your job, too.

20 But as far as some of the issues that
21 are concerned, the master plan, we've had master
22 plans change and rechanged and rechanged over the
23 years until the Coastal Commission come along, and
24 then it got changed again.

25 Every community is always in a fluid

1 state, things seem to change. And people are
2 resistant to change. And sometimes that's rightly
3 so, because it brings to light issues that people
4 have concerns about. But as far as I'm concerned,
5 so far all I can say is that most of the fishermen
6 I've talked to are generally in support of the
7 plan with a leery eye, but we're in support of it.
8 Thank you.

9 PRESIDING MEMBER MOORE: Thank you, sir.
10 Appreciate your comments. Harry Rogers. Mr.
11 Rogers.

12 MR. ROGERS: To the Members of the State
13 Energy Commission, I'm Harry Rogers, Morro Bay
14 citizen.

15 One of the most tiring things we've had
16 to endure here in Morro Bay is to listen over and
17 over to the same groups of people say the same
18 things over and over.

19 They worry about the salt brine in the
20 ocean, while they enjoy turning on their
21 electrical lights each night. They say it's wrong
22 to burn fuel to power our generators while they
23 sit in front of their electric tv sets.

24 This philosophy might survive in a
25 perfect world, which ours is not. So let me say

1 here and now we need a new power plant as soon as
2 possible, with new and shorter stacks, with
3 quieter generators, more fuel efficiency with less
4 air pollution. Our City needs the plant. It will
5 provide jobs for people and their families. It
6 will provide income for our City and power for
7 all. Everyone will benefit in all ways.

8 A new modern plant will do exactly what
9 the environmentalists friends desire. Why they
10 oppose the project would seem beyond logic. By
11 all kinds of styles and computations it boils down
12 to one word, better. And better is always better.

13 A new plant is quite simply put, a
14 better plant.

15 Ladies and gentlemen, thank you, the
16 sooner the better.

17 PRESIDING MEMBER MOORE: Thank you, sir,
18 we appreciate your comments. Pam Soderbeck. Did
19 I pronounce that correctly?

20 MS. SODERBECK: Close.

21 PRESIDING MEMBER MOORE: Close. Well,
22 okay, I've probably done worse. Good evening.

23 MS. SODERBECK: Good evening. And thank
24 you for being here. My name is Pam Soderbeck, and
25 I'm a resident here in Morro Bay. And I guess I

1 have a couple of comments to make of a general
2 nature, in light of the fact that you said
3 basically you have no evidence in front of you.

4 One of my concerns in this process is
5 I've been involved starting about a year ago, is a
6 concern about what I describe as sort of selective
7 public disclosure by Duke in terms of what it
8 highlights.

9 Not in terms of what's in the AFC
10 necessarily, but tonight for example, in the
11 presentation made by Mr. Trump, emphasizing how
12 everything is absolutely wonderful with the
13 environmental news in terms of air quality,
14 they've very, in my view, and I'm cynical, I will
15 tell you right now I'm very cynical, clearly chose
16 a PM10 precursor number to put up there to
17 compare, and didn't put up PM10, itself, which at
18 least according to the AFC is going to go up
19 compared to the old one.

20 And, you know, maybe overall the new
21 plant will still be better, but my point is, you
22 know, that needs to be addressed and make sure
23 that it's not just good enough, but if it's going
24 to be around here for another 30 to 50 years, like
25 this last one, or longer, something should be done

1 about that to plan ahead so that it's not just
2 taken for granted, you know, it's a little bit
3 better now than these other things, so we can
4 accept something worse in PM10, which I understand
5 is one of the worst things for people. And stays
6 fairly local.

7 Given my sort of cynicism at the whole
8 process, I would urge you to carefully look at
9 everything that's in that AFC, and very carefully
10 examine what Duke has come up with. There have
11 been changes, which are for the better, I will
12 absolutely agree with that. But not enough, from
13 what I've seen, in terms of things that just get
14 sort of pushed aside and we won't talk about that
15 unless we're directly confronted. And not enough
16 people are directly confronting them.

17 The other issue I have a major concern
18 is given what's happened with the energy crisis
19 now, and locally we have had air quality standards
20 for NOx lifted in light of the energy crisis so
21 that Duke can exceed those limits. And even
22 though they have to pay some mitigation, they can
23 basically operate more and pollute more than the
24 current guidelines.

25 Will there be an absolute assurance at

1 the end of the day when this is approved, if it
2 is, that there will be no circumstance under which
3 they can then say, you know, still an energy
4 crisis, got to keep the old one running, too?
5 Maybe we'll buy some credits somewhere else. But
6 at least I would want to know absolutely that
7 there will be no new one no matter what. You
8 know, I don't know if it's even possible, no
9 matter if government -- the Governor -- were just
10 the orders or not, can we absolutely know for sure
11 that the old one goes away, and that we won't have
12 both, doubly polluting?

13 That's my concerns. Thank you.

14 PRESIDING MEMBER MOORE: Reasonable
15 concern. Thank you. Barbara Jo Osborne.

16 HEARING OFFICER FAY: While she's coming
17 up I think it's worth noting that as I understand
18 it the applicant's AFC proposal includes
19 dismantling existing projects. So, if their
20 proposal is approved by the Commission that would
21 not only allow the new plant to exist, but require
22 removal of the old one.

23 MS. OSBORNE: Thank you for being here,
24 this is --

25 PRESIDING MEMBER MOORE: Good evening.

1 MS. OSBORNE: You have my name. I've
2 lived here for seven years. I'm a business
3 manager and I'm also a kayaker in the Bay. So I'm
4 paying attention to all of this.

5 Personally, I'm happy to have a power
6 plant here. It's keeping this area from becoming
7 like Pismo Beach or Malibu, so it's keeping a lot
8 of people out because there's a power plant here.
9 So, I like the idea.

10 (Laughter.)

11 MS. OSBORNE: It's sort of why I moved
12 here. But I do have concerns about the water and
13 the amount of water that's coming out of the
14 estuary, or even that there's any water coming out
15 of it. And these are my general comments. I will
16 be participating and sending in written comments.

17 But, what happens, I'm just a person of
18 the public. I went to a Water Board hearing and I
19 listened to some representatives or consultants
20 speak about some comparisons and numbers and
21 percentages of the predicted damage of impingement
22 and entrainment after they identified that as both
23 meaning death to the plant life or fish life.

24 They were using comparisons that were
25 kind of skewed, or used the largest possible, I

1 don't know what that is, but the largest possible
2 thing to compare this to. If they were doing
3 something in the front of the plant --

4 PRESIDING MEMBER MOORE: The worst case.

5 MS. OSBORNE: The worst case. I don't
6 know how to participate in that, to say well, time
7 out, that doesn't seem right. Even if I'm sitting
8 here doing the math, it's wrong. And I don't know
9 where to participate in that.

10 PRESIDING MEMBER MOORE: Well, let me
11 just stop you for a second. That's one of the
12 reasons why the staff has workshops where there is
13 an informal interaction. Because the crew people
14 who will be working on some of the marine issues,
15 for instance, were also involved in the Moss
16 Landing case. And they are some of the most
17 reputable people I've ever had the occasion to
18 work with. And they take great care to try and
19 explain what they're talking about.

20 So if you do participate in those
21 workshops, I believe you will find that your
22 concerns about understanding the data and
23 understanding the models or the metrics that are
24 used in creating those models, really will be made
25 clear. Because they'll work hard to do that.

1 MS. OSBORNE: So you would be able to
2 ask questions about it?

3 PRESIDING MEMBER MOORE: Oh, you bet.

4 MS. OSBORNE: Oh, okay.

5 PRESIDING MEMBER MOORE: A lot less
6 formal than here where --

7 MS. OSBORNE: Oh, okay, and that's with
8 your staff?

9 PRESIDING MEMBER MOORE: Yes, the staff
10 and the applicant, a lot of expert folks.

11 MS. OSBORNE: Okay.

12 HEARING OFFICER FAY: By example, some
13 of the experts that they used last time at the
14 Moss Landing project on the technical working
15 group included Professors from the Marine Lab, the
16 local Marine Lab, and so these are people who have
17 published recognized papers in the area. Real
18 experts not connected or biased either for or
19 against the project.

20 MS. OSBORNE: Oh, thanks. So then the
21 other issues that I have are, well, I just hope
22 that they're considering some other way to get
23 their water without pulling it out of the Bay any
24 longer. Because I think it's time to think about
25 that.

1 But also issues around tourism because
2 this is -- we're a tourist industry here, and
3 there is a construction period and our competitors
4 are Cayucos and Cambria, and there's a lot of
5 store owners that will be impacted during the
6 construction phase. And what happens.

7 So I'm concerned about working that
8 through, even if it means going around and telling
9 all the store owners what's going to happen.

10 And then also the asbestos in the smoke
11 stacks. And I think they're lovely. I like the
12 idea of the pollution going up higher.

13 Anyway, that's it. I'll be here through
14 the process and thank you again.

15 PRESIDING MEMBER MOORE: Thank you, we
16 appreciate your comments. Meredith Bates. Ms.
17 Bates. Not here. Rick Grantham.

18 MR. GRANTHAM: Good evening.

19 PRESIDING MEMBER MOORE: Good evening.

20 MR. GRANTHAM: My name is Rick Grantham
21 and I'm not affiliated with any group. I'm just
22 here to speak to you as a private citizen.

23 I'm a big fan of a clean environment.
24 And that's why I'm 100 percent in favor of the
25 Duke modernization project.

1 I also like to feel that we're doing our
2 share to help the state in the current electrical
3 crisis we now face. We can't continue the "not in
4 my back yard" mentality and ever hope that this
5 situation will improve.

6 I also believe in the basic
7 responsibilities of government to provide a safe
8 place for its residents to live. The fact that
9 the City will receive \$2 million a year guarantees
10 the fact that our police, fire and emergency
11 services will be highly trained, fully staffed and
12 well equipped. A must for the City that has such
13 a high senior population.

14 In closing, I have always found Duke to
15 be a responsible and responsive member of this
16 community.

17 Thank you.

18 PRESIDING MEMBER MOORE: Thank you, sir,
19 appreciate your comments. Hal Tune.

20 MR. TUNE: Good evening, --

21 PRESIDING MEMBER MOORE: Good evening.

22 MR. TUNE: -- member of the Commission,
23 and thank you for the opportunity to come and
24 share with you.

25 This is my home, Morro Bay, has been for

1 over 20 years. And I, in the past, have worked as
2 an engineer for Bechtel Corporation on the design,
3 construction and startup of steam power plants
4 just like we have here in Morro Bay.

5 And there is a problem that I want to
6 share with you that is ongoing and will continue
7 to be ongoing. And that is the operation of this
8 plant, and how it is operated now. The problem is
9 that the velocity through the screens determines
10 how much kill there is on our marine life.

11 And other power plants run the screen
12 wash pumps on a continual basis in order to keep
13 those screens clean, so that there's not a
14 buildup, which raises the velocity through the,
15 actually through the screens. And these little
16 marine life are not able to fight back against
17 that velocity.

18 And in this plant here, and I really
19 want to thank Duke because they've always been
20 really fine with me, and I've been down in that
21 screen house. These screens are only washed when
22 they build up, rather than being washed on a
23 continual basis. Therefore, they can cut down on
24 the amount of kill if they would do as other
25 plants do, and run screen wash pumps on a

1 continual basis and cut down on the buildup, and
2 as I say, raise the velocity and it makes it --
3 there would be less organisms killed in our
4 screenhouse.

5 Not only right now, but as time goes on.
6 Because the plan is that they are only going to
7 operate those screen wash pumps when the
8 differential builds up. But it doesn't matter
9 what the philosophy is, and this is very important
10 that you understand that. It doesn't matter what
11 the velocity is, the idea is to keep this lower
12 velocity through those screens as possible.

13 And that can easily be done with a cost
14 of less than \$100 a day to keep that screen wash
15 pump running on a continual basis.

16 Thank you.

17 PRESIDING MEMBER MOORE: Thank you, sir.

18 HEARING OFFICER FAY: Thank you.

19 PRESIDING MEMBER MOORE: We appreciate
20 your comments. John Barta.

21 MR. BARTA: Good evening, Commissioner
22 Moore, Representative O'Brien, Hearing Officer
23 Fay. My name is John Barta and I'm a citizen of
24 Morro Bay.

25 I'm also a Planning Commissioner, but my

1 remarks this evening are personal remarks, not
2 those of the City, per se. I am the Editor of
3 Morro Bay Crossroad, a political advocacy
4 organization from the last election.

5 I wish to give voice to the citizens of
6 our community who were asked by our City Council
7 last November what their opinion was of the
8 proposed project. The question was asked in the
9 form of an advisory ballot measure, measure P-
10 2000.

11 This is the ballot measure in toto up
12 there. Shall the City Council of Morro Bay
13 support a single phase project for the replacement
14 and demolition of the existing Morro Bay Power
15 Plant estimated to be completed by 2007 if the
16 project complies with all regulatory laws,
17 ordinances, regulations and standards.

18 Here's how the community responded. As
19 you can see, 63.4 percent of the community
20 responded with a yes answer, while 36 percent,
21 approximately two to one in favor of measure P.
22 The turnout was not small, it was 78.1 percent. I
23 don't know what it was in your local community,
24 but I'll bet you that this was a real heavy
25 turnout by comparison. A very high turnout here

1 in Morro Bay, a very involved citizenry as you can
2 see this evening.

3 I'm confident if they were asked again
4 today the response would even be more
5 overwhelming. We want the new plant. And most
6 importantly, we want to get rid of the old one, as
7 long as it complies with the law.

8 The primary reason we value removal of
9 the old plant is mitigation of the visual impact
10 of the existing power plant structures. We will
11 not achieve that if you require the proposed new
12 plant to use large dry air cooling. I've heard
13 that mentioned this evening.

14 The community decision was not taken
15 lightly. It was not taken without many questions
16 and many answers. You've already heard about our
17 extensive preapplication process.

18 I would like to mention in passing the
19 lighthouse issue. Obviously if your ruling
20 requires removal of the three stacks, then no
21 lighthouse would be possible.

22 Many community members have thought
23 outside of the box and have concluded that this
24 would not be retention of a stack, as I've heard
25 your staff this evening characterize it, but

1 actually creation of a lighthouse. An outstanding
2 icon for our fishing village community.

3 We see it as a big plus, and mitigation
4 of the visual impact and in creating community
5 value. We want to change Morro Bay from the place
6 with the three smoke stacks into the place with
7 the beautiful lighthouse. The tallest one in
8 North America.

9 Please keep the lighthouse issue alive
10 in your process. To do otherwise would be to kill
11 a great idea before it can be fully explored.

12 Thank you. I'll speak more on that one
13 on Thursday.

14 PRESIDING MEMBER MOORE: Thank you, Mr.
15 Commissioner. Appreciate your remarks. Jim
16 Nance. Is Mr. Nance here? Yes, sir.

17 MR. NANCE: I'm Jim Nance, a resident of
18 Morro Bay. And I've got an idea here I think
19 should be considered. If residents are going to
20 live with a power plant in our community then they
21 should get some energy benefit from that power
22 plant.

23 I urge the CEC to consider the
24 implementation of an independent agency that could
25 purchase power from the producer, Duke Energy, and

1 provide this electricity to the community at low
2 reasonable rates. Other cities and communities in
3 California do this, so why not here?

4 This should be considered as part of the
5 approval process. And I was also wondering if
6 this concept is something that could or will be
7 covered at one of the workshops?

8 PRESIDING MEMBER MOORE: Well, it's
9 certainly going to get covered if you bring it up.
10 I'm not sure whether in the end we'll have the
11 authority or the jurisdiction to do it, but it's
12 an interesting question, and I hope you do raise
13 it at the workshops.

14 MR. NANCE: All right, thank you.

15 PRESIDING MEMBER MOORE: Thank you, sir.
16 Garry Johnson. Good evening.

17 MR. JOHNSON: Good evening, Commissioner
18 Moore and the Committee. Glad you're here, it's
19 way overdue; looking forward to it for the next
20 year.

21 If you're against the Duke Energy Plant
22 that's one thing, but some of the misinformation
23 out there about this plant or the state of the
24 operations, in my opinion, are and were misleading
25 and I will give my presentation for the reasons I

1 feel that way.

2 I'm a retired metallurgical engineer
3 working for the space industry. I worked
4 independently to find out the facts about the Duke
5 Energy Plant and the facility. I have extensive
6 experience in surveying companies and I'm very
7 familiar with technical procedures and toxic
8 materials and so forth.

9 At the beginning of the Duke Energy
10 expansion controversy I attended the first meeting
11 of the Morro Bay Community Center and other
12 meetings for over a year. At this meeting and
13 others I became very concerned about what I heard
14 about Duke Energy and how they are polluting our
15 community.

16 As a result I decided to find out
17 independently, I don't belong to any group, what
18 was going on. I did a complete plant survey
19 inside and outside the facility. And I found
20 everything in good order. No anomalies were found
21 contrary to what you may hear.

22 All of the Duke personnel could not have
23 been more cooperative. The complete facility was
24 open to me; the paper trail was there for me to
25 examine. And believe me, I did examine it. I've

1 been in the facility a half dozen times now. And
2 I've gone over the records, calibration equipment
3 and so forth.

4 I attended most of the weekly meetings
5 that were held each Thursday afternoon that Duke
6 Energy provided for the community to ask any
7 questions that we may have. What really upset me,
8 most of the time I was generally the only one
9 there asking questions.

10 The outside facility and the ponds were
11 in good order. If the ponds do leak, there are
12 warning signals in ponds that will go off if the
13 ponds do leak. And are covered with heavy net
14 material to prevent any animal life landing into
15 the pond. No PCBs could have possibly been in the
16 water or leaked into the ocean.

17 Chlorine is not used as first stated a
18 year ago. It's clorox. It is not a problem. It
19 does not come in complete contact with the steam
20 that goes out the stacks, as reported. The clorox
21 is added to reduce the algae buildup in the ocean
22 water as used for cooling purposes inside the
23 plant. The clorox dissipates by the time it goes
24 back out to the ocean.

25 The anti-Duke Energy people keep saying

1 the estuary is dying because of pollution from the
2 plant. I'm a SCUBA diver, I'm an outdoor
3 photographer, I'm a kayaker, and I'm a bird
4 watcher for the Audubon Society. I have seen
5 tremendous amount of growth out there and animal
6 life in the estuary.

7 Why is it that sea otters feed daily on
8 clams that are just a few hundred feet from the
9 Duke Energy intake? We have the third and fourth
10 highest bird count in the United States each year
11 during the nation's annual December bird count.

12 We had a whale several months last year
13 that was living and feeding just a few hundred
14 feet from the plant. Hundreds of pelicans feeding
15 on the thousands, probably millions of bait fish
16 that were near the plant. As a matter of fact, I
17 was out there fishing and you could catch five, or
18 six, seven at a time.

19 The list goes on about the marine life.
20 A friend of mine is a Director of the Scripps
21 Institute. I gave her the marine report that was
22 submitted. And she thought it was a fantastic
23 report. Everything was in place.

24 In conclusion, I'm for the Duke Energy
25 Plant. The majority of residents spoke out and

1 voted last November and said they support the new
2 facility. I'm not saying that the present
3 facility does not pollute. It does. It does meet
4 all the state standards, and does not contain any
5 cancer-causing agents. The same type of
6 contaminants or pollution comes out of your gas
7 stoves, water heaters and et cetera.

8 However, the new facility will far
9 exceed the pollution standards of today. The
10 noise level is going to be less. The aesthetics
11 will be greatly improved.

12 Thank you.

13 PRESIDING MEMBER MOORE: Thank you, sir,
14 we appreciate your comments. Melody DeMeritt.
15 Good evening.

16 MS. DeMERITT: Ah, jeez, all the stuff
17 you guys have to listen to. I contacted the Air
18 Pollution Control District, by the way, and asked
19 them about this analogy people make between the
20 home heater I have in my house burning gas and the
21 gas that's being burned over at the power plant.

22 And at the APCD the smog control cop
23 there told me that that's apples and oranges.
24 There's a different way of burning them. So I
25 wish they'd stop telling me that when I turn my

1 heater on at home it's the same as Duke turning
2 that one on.

3 I have four questions. My concern has
4 always and primarily been air pollution, because
5 as an asthmatic I have problems breathing anyway.
6 And I live on a hillside community here in Morro
7 Bay, almost directly across from the current
8 plant.

9 I was looking at Mr. Trump's power point
10 presentation earlier and I saw again their claim
11 that air emissions are going to go down
12 dramatically. I would just remind you that in the
13 last two years their average has been so high
14 because they've been polluting greatly.

15 They, in fact, right now are under an
16 emergency variance, polluting seven tons or more
17 of NOx. They've been allowed, Bob Carr said
18 tonight that they can go up to eight tons of NOx
19 per day. The current standards are 3.5 tons per
20 day.

21 They say that this is better than what
22 they were doing last year, which they include in
23 that two-year average, because they were doing 11
24 or 12 tons of NOx per day. But the state standard
25 right now, as of 2001, is 3.5 tons. So that's why

1 that thing looks so strange.

2 Also, they could promise us less
3 pollution because I think -- the slide went by a
4 little bit fast, but I think that they're still
5 doing their thing about how much pollution do we
6 create per megawatt.

7 Well, that may, in fact, go down. But
8 the point of the matter is, is they're making many
9 more megawatts per year, and so the pollution goes
10 up. But as long as they continue to do this
11 megawatts per hour business, we don't get a yearly
12 standard.

13 Secondly I'm concerned a bit about the
14 lower stacks, the 145-foot stacks. I hear, too,
15 that the Air Pollution Control District may be
16 negotiating with them on this height because
17 they're not sure yet whether at that height the
18 pollution coming out of those stacks can actually
19 clear these hills to the east, which I live on.

20 I was at a neighborhood meeting, one of
21 the Duke neighborhood meetings, about a year ago
22 and I spoke to a man from Duke Energy, and I
23 said -- well, actually I didn't, my neighbor came
24 up and asked this question and I got interested in
25 the answer. If the stacks are at 145 feet, can

1 they actually -- can you promise me that this
2 pollution is not actually hitting us even closer
3 to the ground. Is it coming at us more directly?

4 The answer from that Duke
5 representatives I don't think is the truth. And
6 I'd like you to get at the truth. He said that
7 the velocity of the pollution coming out of the
8 stacks would be so great as to blow it straight up
9 into the air, and then it would clear the hills.
10 I don't think that's really reasonable.

11 Number three on Mr. Trump's slides, he
12 shows on there the construction timeline. That it
13 takes about a year and a half to build a brand new
14 plant. A state-of-the art plant it takes a year
15 and a half to build one, but then he shows three
16 years to demolish the other plant. I don't know
17 why it takes three years to demolish the others.

18 I understand that they need to keep it
19 on for a year after the commercial operation date,
20 what they call the COD. I guess that's to check
21 the new plant for bugs. So if the new plant works
22 fine after a year, why can't they blow it up?
23 Last week they blew up Three Rivers Stadium in
24 Pittsburgh, it took about a half an hour.

25 Also, finally, finally, I heard earlier

1 that you told D.J. that you can -- that in your
2 permit that you grant to Duke you can bind them to
3 this idea of demolishing the plant. But many of
4 us are a little cynical about this.

5 So, if it's in the permit that they must
6 dismantle the plant, I'd like to ask you a
7 secondary question and that is if Duke sells the
8 plant during that year of commercial operating,
9 that one year, if they sell the plant to somebody
10 else, does that still bind on the new owner that
11 they must still demolish that plant?

12 PRESIDING MEMBER MOORE: Yes, that one's
13 easy. Yes.

14 MS. DeMERITT: Yes. Thank you.

15 PRESIDING MEMBER MOORE: Thank you.
16 John Lindsey. Good evening.

17 MR. LINDSEY: Good evening. I'm
18 speaking tonight both as a representative for
19 Driscoll's Wharf and a lifetime resident of this
20 County.

21 Driscoll's Wharf recently opened, just
22 the middle of last year, and we're a rapidly
23 expanding seafood company directly across the
24 street from Duke Energy.

25 During putting together this company

1 we've had a lot of instances where we've had to
2 contact Duke Energy for assistance in unloading
3 equipment and stuff for us. I found Duke very
4 helpful. It's pretty rare, you know, with a large
5 company that we were able to get directly in
6 contact with the plant manager for assistance.
7 And they've continued to be very helpful in our
8 project.

9 As a lifetime resident of this County,
10 both my livelihood and my hobbies are closely
11 related to the environment. And I've followed
12 this whole project so far pretty closely. I find
13 so far I've found nothing that I could see that
14 would make me want them to reconsider this
15 project.

16 And I do hope that you will find in
17 favor of it. Thank you.

18 PRESIDING MEMBER MOORE: Thank you very
19 much. Appreciate your comments. Dr. Richard
20 Smith.

21 DR. SMITH: The beginning of this and
22 I'm already thinking you guys have got the worst
23 job I ever saw.

24 Just a comment before I start what I
25 really wanted to say, but I felt a bit offended,

1 if I understood it correctly, where you were
2 showing the graphs that everything was going to
3 improve, the water usage and -- because as I saw
4 that graph it was based on the last two years
5 where the plant has been going full bore.

6 And for us in Morro Bay, we want to know
7 in general will the future be less polluting and
8 less water, and that would, of course, be based
9 over utilization, which you said, yourselves, is
10 much much lower than it has been the last two
11 years. So I think that comparison graph needs
12 some looking up. The public is easily confused by
13 that.

14 I really wanted to talk about marine
15 resources impact briefly, and I'll probably be
16 saying more later. But I'm concerned about the
17 water diversion issue. And I'm concerned also,
18 and this mixes air and water, with the impact of
19 the roughly 10,000 pounds or whatever we're saying
20 today, is dropping on the watersheds and the
21 estuary of that nitrogen oxide.

22 It's a fertilizer and it's increasing
23 algae growth. And it seems to be damaging the eel
24 grass, and that's a substrate of the estuary.
25 It's directly impacting, I'm afraid, the carrying

1 capacity.

2 I've read the entire 316B sections of
3 the AFC. Nowhere have I seen those issues of
4 nitrogenification of the eel grass discussed. I
5 think it's important.

6 To start in this global sense of what
7 does this mean, I think we need to start by asking
8 what the health of our oceans are. As you're
9 probably aware, recently NOAA has come out saying
10 in general the oceans are in very poor health.

11 Within that context we need to ask what
12 does an estuary do in maintaining the health of an
13 ocean. It's enormously important. It's helpful
14 for me to realize this is a natural power plant.
15 It's an extraordinarily powerful natural power
16 plant that doesn't pollute and hasn't been
17 regulated for the 10,000 years that our Chumash
18 Salinan People describe.

19 It transforms nutrients and waste from
20 the land with those of the sea, and produces an
21 incredible variety and diversity of life.

22 I recently read two-thirds of even the
23 major commercial fisheries depend on estuaries
24 either for spawning or feeding. So more or less
25 directly.

1 So estuaries are enormously important in
2 ocean life. We can confirm that through these
3 hearings. Morro Bay estuary is especially
4 important because there's hardly any left. We're
5 getting down to the bottom of the barrel.

6 This is one, as Mike Multari said, of
7 two west coast national estuaries. His work, the
8 NEP's work shows that our estuary is already sick,
9 and it's shrinking at an alarming rate.

10 If you go back and talk to people
11 historically, I heard these comments about how
12 good the Bay's doing, the old-timers will tell you
13 all kinds of species that are missing. And
14 personally, in the '80s, practically lived off the
15 mudflats on goeyducks, Washington clams,
16 butterclams and so on. They're just not there
17 anymore. Go over and look.

18 When I read the AFC I was very concerned
19 about several things. It looks to me, if you read
20 it carefully, if you look at the data they
21 reported for the '60s and the '70s against the
22 current data, that overall kill rates have
23 declined. I don't know why. Why aren't they
24 killing just as many now as they were before?

25 I went through and I looked at the

1 specific species and contrasted them, and with the
2 exception of the northern anchovy I didn't find
3 any overlap, either in invertebrates or
4 invertebrate species. I don't know what that
5 means, but it scares me.

6 The kill rates that were talked about in
7 here are all based on a highly suppressed
8 baseline. Whoever's data you take, it takes
9 somewhere between three and six weeks to turn over
10 the entire volume of this estuary. That's a lot
11 of turnover. A lot of eggs and a lot of larvae
12 however you look at it.

13 And when you start measuring only in the
14 suppressed state, we don't know how far down, but
15 if we kill most of the stuff off it's not going to
16 look like we can kill much more. We've got to
17 have historical baselines. They don't exist in
18 the AFC.

19 I think that's enough. I wasn't going
20 to rant and rave. Maybe I did. Thank you.

21 PRESIDING MEMBER MOORE: Thank you,
22 appreciate your comments. Arby Kitzman.

23 MR. KITZMAN: Thank you, and I would
24 also like to thank you for coming to Morro Bay and
25 having the chance for all of us people to speak

1 with you.

2 My wife couldn't be here this evening,
3 but we did write a letter together. My wife came
4 to Morro Bay in 1946 before there were any smoke
5 stacks. I came here in 1959 when there was one.

6 When people ask us about the smoke
7 stacks we say what smoke stacks. You know, we
8 don't see any.

9 But we would like to encourage the
10 project go-ahead, the modernization project, the
11 Duke Energy proposal.

12 And I would also like to mention I've
13 had the opportunity to work with many of the Duke
14 Staff in volunteer positions. They are very
15 giving of their time. Not only as individuals,
16 but as a corporation.

17 And my family, we own a small business
18 here in Morro Bay, and anyway, we feel very
19 fortunate to have Duke Energy as a corporate
20 partner here in Morro Bay.

21 PRESIDING MEMBER MOORE: Thank you.
22 We'll look forward to reading your letter. Bill
23 Woodson. Good evening.

24 MR. WOODSON: Good evening, Commission,
25 thank you for coming to Morro Bay, welcome to our

1 fine City and we appreciate your time for being
2 here.

3 I, too, am a retired engineer. I worked
4 for the Los Angeles Department of Water and Power.
5 I was lucky enough to be involved in a major power
6 project in Utah. I was in the management of that
7 Intermountain Power Project, a 1600 megawatt coal-
8 fired plant.

9 So when I heard Duke was coming into
10 town I was a little alarmed because I knew what
11 the project manager in a utility could do to a
12 small town.

13 And like Los Angeles Department of Water
14 and Power became good partners with Delta Utah,
15 Duke came to Morro Bay and became partners with us
16 to develop a very well managed and planned
17 project. So, I, too, endorse measure P
18 wholeheartedly.

19 But what I'm up here for tonight is to
20 ask you, since you are a public body, and this is
21 a very rare opportunity for me to see you face-to-
22 face, and I'm very proud to be here, you intimated
23 that this process for approval of this project
24 could be accelerated from the one year proposed
25 that we saw on the slide show tonight to something

1 shorter. Is it possible for you people to show us
2 what that short timeline may be, and how short it
3 could be if you guys optimized the process?

4 And then the second question that I have
5 is I keep reading in the paper about these 50
6 megawatt platform or modular plants that are
7 trying to be sprayed around California to meet our
8 peak requirements this summer and the next, and I
9 wonder when and where we're going to be able to
10 find out where these platform modular projects are
11 going to be placed, and whether this is going to
12 become under your purview, and whether there's any
13 plant in the local area.

14 Thank you very much.

15 PRESIDING MEMBER MOORE: Well, you know,
16 I can answer your second question. I, too, would
17 like to know where they're going to be proposed,
18 considering that I'm going to be sitting on a
19 number of those cases. And I'd love to know where
20 my next few weeks and months are going to be
21 spent, in what communities throughout the state.
22 None of us know yet. The applications haven't
23 come in. But the CEC will be the body that
24 oversees those.

25 In response to your first question, I

1 think Mr. Fay was pretty clear at the front end in
2 saying we're bound, we can't go beyond a year. So
3 we have an outer limit. How fast we could
4 accelerate that, all I can do is give you
5 something in comparison.

6 I presided over a case in San Bernardino
7 County where there was literally no public
8 opposition and the plant was refitted within its
9 own boundaries, a very old and inefficient plant,
10 or proposed to be. And we conducted the hearings
11 in a total of ten and a half months.

12 And that's the fastest one that's
13 happened at the Commission. So, if that gives you
14 any comparison at all. It all depends on how fast
15 the evidence comes in and what people have to say.

16 So we have a year at the outside.

17 MR. WOODSON: So you probably can shave
18 one or two months off, and that's probably about
19 the --

20 PRESIDING MEMBER MOORE: Well, that's
21 how fast we did it last time. Whether we can do
22 it faster or not remains to be seen. But I'll
23 tell you, that's as fast as we have done it.

24 MR. WOODSON: Thank you.

25 PRESIDING MEMBER MOORE: Thank you.

1 HEARING OFFICER FAY: Just so there's no
2 confusion, there is a new law that provides for a
3 six-month licensing process. It does not apply to
4 this project.

5 And a four-month licensing process,
6 which under an emergency order the Governor has
7 accelerated to 21 days. That is what these 50
8 megawatt peakers that you're concerned about will
9 be under.

10 The Commission Staff will have a
11 screening list available, I believe by March, of
12 prescreened sites that they would be encouraging
13 application at those sites.

14 So that would give you some idea. In
15 addition, builders could propose at other sites,
16 but then they bear the risk of having, it's such a
17 simple process it could get through in 21 days.
18 That does not mean that a project like this could
19 be applied for a 21-day process.

20 These peakers will only even be
21 considered for the process if the site is
22 essentially prescreened and there's little or no
23 environmental impact right from the get-go.

24 So it's not something that I think you
25 need to worry about at this location.

1 MR. WOODSON: Thank you.

2 PRESIDING MEMBER MOORE: Thank you.

3 Peter Wagner, Dr. Peter Wagner. Good evening.

4 DR. WAGNER: Thank you, gentlemen, Ms.
5 Lewis. I'm one of the 36.6 percent. I would say
6 in defense of the 36.6 percent that we were
7 outspent in that campaign, probably by ten to one.

8 I'm a Morro Bay resident. I'm a retired
9 electrical engineering professor and former
10 director of a major environmental research center
11 that specialized in estuaries. It was even in the
12 title. I'm also a member of the Coastal Alliance.

13 And I wanted to just bring up three
14 specifics in the material that we received
15 recently. The first has to do with the through-
16 put of the cooling water.

17 As Duke says, correctly, it will be
18 lowered in gallons per minute by 29 percent. But
19 I assume that the new power plant would operate as
20 baseload, probably 80 percent of the time, in
21 fact that number shows up repeatedly in the AFC.
22 Whereas the old plant would presumably, in the
23 post-2003 climate, where according to the ISO
24 we'll have a surplus of electricity generation,
25 the old plant would probably revert to maybe 30,

1 40 percent of the time, as a peaking plant or
2 possibly for intermediate use.

3 That means that -29 percent has to be
4 corrected. As a matter of fact, over a year it
5 comes out to be +42 percent. So over a year, if
6 these numbers are reasonable, the new plant will
7 use 42 percent more Morro Bay water than the old
8 one did.

9 Now, this refers, by the way, to page 1
10 and page 3 of the issues, and page 6 of the data
11 request.

12 Point two. I want to thank the
13 Commission for being sensitive to many of the
14 Coastal Alliance's requests for information and
15 issues, statements. I have a particular bee in my
16 bonnet about the intake building. Even with the
17 cosmetic improvements that thing is huge. And it
18 is ugly.

19 Thank you for asking Duke to get data on
20 what it would take to lower the roofline to make
21 it more compatible with the environment and to use
22 a portable crane.

23 And finally, I couldn't find anything in
24 there about the estimated lifetime, the
25 economically viable lifetime of the old plant

1 vis-a-vis the anticipated lifetime of the new
2 plant. It seems to me originally Duke said the
3 old plant could go on indefinitely, and then later
4 they amended that to say 20 to 30 years, which
5 make sense to me.

6 If the new plant will be around as long
7 as the old one was, it's good for 50 years. That
8 also makes sense. I'm very disturbed by the fact
9 that that means if the new plant goes through my
10 grandchildren will have a power plant here for an
11 extra 20 years. And I hope you'll press that
12 issue and get some firm estimates on the lifetime
13 of the two options.

14 Thank you very much.

15 PRESIDING MEMBER MOORE: Thank you,
16 Dr. Wagner. Ed Biaggini. Did I pronounce that
17 correctly?

18 MR. BIAGGINI: Perfectly.

19 PRESIDING MEMBER MOORE: Finally.

20 MR. BIAGGINI: A rarity.

21 PRESIDING MEMBER MOORE: I know, I'm
22 celebrating.

23 MR. BIAGGINI: Good evening, gentlemen.
24 My name is Ed Biaggini and I'm here tonight
25 representing the Morro Bay Motel and Restaurant

1 Association. I'm the current President of the
2 Association, and I've been a member of the
3 Association since 1986 when we built our motel
4 here in Morro Bay.

5 I was born and raised here in San Luis
6 Obispo County, as were both my mother, my father,
7 my grandfather, my great grandfather, my great
8 great grandfather on my mother's side. And we're
9 still not yet finished trying to find out how long
10 we've been around here. We, too, have some
11 Salinan blood in us.

12 Anyway, last year Morro Bay, our
13 Association gave its endorsement to the proposed
14 modernization of the Morro Bay Power Plant to Duke
15 Energy.

16 I would like to take a minute and
17 explain that endorsement and why it came about.
18 Earlier last year we became concerned that the
19 residents and businesses of Morro Bay were getting
20 inaccurate information regarding the potential
21 impact that the proposed construction would have
22 on the economy in Morro Bay.

23 Tourism is the number one industry in
24 Morro Bay. Even the opponents of the
25 modernization have agreed with us on that point.

1 Without the traveling public continuing
2 to come to Morro Bay there is no way that Morro
3 Bay could continue to survive and still provide
4 the level of services that it provides today. So,
5 maintaining our growth in the tourism marketplace
6 is critical, not only to our livelihoods, but also
7 to our way of life.

8 During public hearings conducted here by
9 our City Council statements were made regarding
10 the negative impact that the construction would
11 have on our tourism industry. There was a
12 suggestion that tourists would be driven away by
13 all of the noise, dust, et cetera, involved in the
14 construction phase of the modernization plan.

15 Several of us had a feeling that this
16 wasn't true. So we decided to find out what our
17 members thought. We held a general membership
18 meeting to discuss the potential impacts on our
19 businesses.

20 During that discussion a couple of our
21 members reminded us of what happened a few years
22 ago when PG&E did a substantial retrofit of the
23 current plant. Indeed, not only did their
24 businesses not go down, but they actually realized
25 a substantial increase due to the number of

1 employees that were brought in to do the work.

2 After a lengthy discussion a motion was
3 made and passed unanimously to endorse the
4 proposed modernization. However because not all
5 of our members were present at our meeting we
6 followed up with a letter to our membership
7 stating the action we had taken, and we asked them
8 to contact us if they had any concerns.

9 We did not receive one negative response
10 from the rest of our membership.

11 Our Association continues to take the
12 position that if the proposed plan is carried out
13 in accordance with all of the requirements that
14 public entities such as yourselves decide are
15 necessary, then Morro Bay will be positively
16 impacted from the construction.

17 In closing, let me say that our
18 Association has never been approached by anyone
19 from Duke Energy asking for this endorsement. The
20 representatives from Duke Energy have always been
21 and continue to be very friendly, professional and
22 accessible whenever we have had a need to talk to
23 them.

24 Thank you for this opportunity to speak
25 tonight. And if you have any questions I'd be

1 happy to answer them.

2 PRESIDING MEMBER MOORE: Thank you.

3 MR. BIAGGINI: Thank you.

4 PRESIDING MEMBER MOORE: Appreciate your
5 coming. Bonita Churney. Good evening.

6 MS. CHURNEY: Good evening and welcome
7 to Morro Bay, Commissioner Moore, Hearing Officer
8 Fay, and Staff.

9 I hope in addition to the plant tour
10 that you took this afternoon you also have an
11 opportunity to tour our beautiful town, including
12 the estuary and the Bay before you leave town, or
13 at some point in the process.

14 I think you will agree that our
15 community is one of the loveliest on the central
16 coast, and indeed, all of the coast of California.

17 If there is one thought that I hope you
18 take with you, too, when you leave this evening it
19 is that size matters. The impacts of this project
20 will be huge, and I believe Duke acknowledges as
21 much, both long term and short term.

22 I read recently where the Metcalf
23 project was described as a huge project. And as
24 you know, the Metcalf project is 600 megawatts.
25 If Metcalf is huge, Morro Bay is gargantuan.

1 And so in considering the impacts of
2 this project, both in terms of human health and
3 the environment, I hope that serious thought is
4 given to the appropriateness of siting a plant
5 this size in the middle of our community.

6 In Metcalf, you know, which is also
7 described as huge, although half the size of what
8 is proposed here, it's proposed to be sited
9 outside of the populated area of San Jose.
10 Certainly not in the middle of San Jose, the
11 middle of the community such as here.

12 And this would also bring into play the
13 alternatives, and the alternatives consideration
14 during the course of this process. I understand
15 that the alternatives analysis looks at
16 alternatives that are capable of avoiding
17 significant effects or lessening those effects.

18 And I think through the course of this
19 project, through the course of these proceedings,
20 you will be presented with some alternatives that
21 meet those criteria. Particularly alternative
22 technologies. And, in fact, the staff has already
23 recognized alternative technologies and has
24 requested Duke to do further study. And I commend
25 that to you and to staff.

1 And during the course of the process I
2 hope that you come to recognize, as we all do, and
3 come to appreciate the precious and priceless
4 nature of Morro Bay, the estuary, which has been
5 described in legislation in California as one of
6 the state's rare natural treasures. Something to
7 be protected and something that should be given
8 serious consideration throughout this process.

9 Another area of special concern to me is
10 air quality. You've heard a lot about air quality
11 already this evening. I won't repeat what's
12 already been mentioned, but of special concern to
13 me also are the lower stacks mentioned by Melody
14 DeMeritt.

15 Reading the AFC, and one of the things
16 that has been told to the community is that that
17 is not a concern because the velocity of the
18 emissions will be greater and it will get it up
19 over the hills, or so we're told.

20 In reading the AFC, though, it's clear,
21 based on the tables provided by Duke, that in
22 fact, the velocity will be less than the velocity
23 of the current plant. And if that's so, then why
24 have we been told contrary? What does this mean?
25 And will that really work?

1 Another question I have is with respect
2 to the impact of the Governor's most recent
3 orders, and how that will impact the length of the
4 process. I think you answered that question,
5 although you didn't specifically address the
6 emergency orders most recently issued.

7 My concern is with respect to public
8 participation. And we're just beginning the
9 discovery phase, as you know. And I do have a
10 question regarding when that discovery phase is
11 going to end, because discovery that's submitted
12 will have to be submitted and allow 30 days. So
13 that's something that I'm sure I can take up with
14 Kae Lewis at some point.

15 But any shortening of the process will
16 shorten every -- I'm assuming shorten every part
17 of that process. And I just want to make sure
18 that the public has adequate notice and that if
19 deadlines are shortened that enough time is given
20 to the public so that they know that and can react
21 accordingly.

22 One other comment that was made by Kae
23 Lewis was that the Commission has authority with
24 respect to 50 megawatt plants or greater, and I
25 assume that is because a plant 50 megawatts or

1 smaller is considered a small operating facility,
2 and therefore exempt. If you could just confirm
3 that, as well?

4 And I think that will do it for my
5 comments. Thank you.

6 PRESIDING MEMBER MOORE: I can respond
7 to your last comment. We have jurisdiction over
8 50 megawatts or greater for thermal plants because
9 that's what the Warren Alquist Act gives us. And
10 the Legislature may or may not change that up or
11 down in this next very extraordinary session.

12 And in answer to an earlier question I
13 try very hard not to comment on the Governor's
14 Executive Order, and just to respond as it tells
15 me. At least, officially.

16 Thank you.

17 MS. CHURNEY: Thank you.

18 HEARING OFFICER FAY: By the way, that
19 Executive Order does not shorten time on this
20 project. This is a regular project. It's still
21 pursuant to the Warren Alquist Act, and is not
22 influenced by any Executive Orders issued thus
23 far.

24 So, if we do discuss shortening of the
25 schedule it will be within the noticing

1 requirements that are in the Warren Alquist Act.

2 PRESIDING MEMBER MOORE: Thank you for
3 clarifying that, Mr. Fay.

4 Steven Weiner.

5 MR. WEINER: Good evening. My name is
6 Steve Weiner and I'm the Executive Secretary/
7 Treasurer of the Santa Barbara/San Luis Obispo
8 Building Trades Council. I represent the working
9 men and women who will building this new plant.

10 We worked many months along with Duke
11 and developed a labor agreement on the
12 construction of the new plant.

13 Some of the issues that we addressed
14 were not only the paying of area standard wages
15 and benefits, work rules, the quality of work
16 force, and safety issues, but also utilizing a
17 local labor force.

18 We also worked with Duke on the long-
19 term maintenance project on this plant, too, 15
20 years, addressing the same issues of local work
21 force, using area standard wages and benefits.

22 And for these reasons this Council and
23 the affiliates and all the members of the
24 affiliates support this project 100 percent. And
25 we ask that this project move along as

1 expeditiously as possible.

2 Thank you.

3 PRESIDING MEMBER MOORE: Thank you, Mr.
4 Weiner. David Nelson. Mr. Nelson? Well, we'll
5 put his card aside and just assume that he's
6 probably going to come back. Maybe.

7 Hank Lewis. Mr. Lewis, are you here?
8 He is. Good.

9 MR. LEWIS: Good evening.

10 PRESIDING MEMBER MOORE: Good evening.

11 MR. LEWIS: My name's Hank Lewis; I'm an
12 electrician. I live in Cayucos. I represent the
13 International Brotherhood of Electrical Workers
14 Local 639. I'm representing over 200 electricians
15 who live here in San Luis Obispo County.

16 Duke has spent a lot of time and effort
17 on developing a project that will be cleaner,
18 quieter, safer and more efficient. And moreover,
19 Duke has demonstrated their commitment to quality
20 jobs by signing a project labor agreement that
21 will insure those quality jobs for local
22 craftsmen.

23 We ask that you do your job, do what
24 you're trained to do, carefully look at all the
25 evidence and if it meets the guidelines, approve

1 the plant. And then turn it over to us and we'll
2 do what we do best, and that's build a first class
3 power generating facility.

4 Thank you.

5 PRESIDING MEMBER MOORE: Thank you, sir.
6 Kim Kimball.

7 MS. KIMBALL: Good evening. I'd like to
8 thank you, also, for coming to Morro Bay. We
9 really appreciate it. It's a pleasure to have you
10 here.

11 My name is Kim Kimball. I'm the
12 Executive Director of the Morro Bay Chamber of
13 Commerce and the Visitors Center. I am local. I
14 haven't been here as long as Mr. Biaggini but my
15 grandson is sixth generation of this community.

16 I'm a retired Deputy Sheriff Coroner for
17 this County, and in the early '80s I developed an
18 environmental education day camp at CalPoly which
19 still exists under other supervision. So I am
20 environmentally sensitive.

21 I have a couple of things here in front
22 of me. I would like to read an excerpt from a
23 letter that's going to be put into the record from
24 our President, John Zaber. And I have
25 approximately 20 letters that I collected over a

1 year ago from other Chambers of Commerce in other
2 areas where Duke does business.

3 I took it upon myself to contact other
4 Chambers where Duke has property or does business
5 and ask them the question what is it like to have
6 Duke as a corporate or a community neighbor.

7 And I got all positive information back
8 and I'll include those 20 letters.

9 I would like to read just an excerpt
10 from President John Zaber's letter. He's the
11 current President of the Chamber of Commerce here
12 in Morro Bay.

13 "Duke Energy has been a good neighbor,
14 business associate and valuable member of the
15 Chamber of Commerce. Duke Energy has
16 demonstrated by their willingness to withdraw
17 the original application and listen to the
18 concerns of the community that they are
19 sensitive to local concerns and needs. They
20 have developed a project that has been
21 supported by an overwhelming majority of
22 voters at the last election."

23 "The modernization of the Morro Bay Plant has
24 a tremendous impact on the economy of the
25 commerce of this community, the State of

1 California, and the entire nation. The
2 benefits of a safer, cleaner, quieter and
3 more aesthetically pleasing plant are
4 environmentally and economically beneficial
5 to everyone. Providing more energy with less
6 of an impact on the environment is a vital
7 solution to the current energy crisis."

8 "We have an opportunity to take a lead role
9 in problem solving. Let the process begin.
10 We would like to see that project move
11 forward in the CEC process."

12 I have one other thing that I would like
13 to just say to you. I have also looked on the
14 internet and I found a quote from Richard Priory,
15 he's the Chairman, President and Chief Executive
16 Office of Duke Energy, and this is on the
17 environment.

18 "Duke Energy is committed to building a
19 diverse, secure, reliable energy business. We
20 believe it is the best approach for promoting
21 environmental benefit in accordance with our
22 values regarding cultural sensitivity, economic
23 development, resource conservation and
24 facilitating quality of life."

25 "Global climate changes is an issue of

1 concern to us as an energy business, and as
2 individuals. At Duke Energy we are assessing and
3 prudently managing the impacts that our business
4 has on the environment. We are investing in
5 research, are actively engaged with external
6 stakeholders in the development of comprehensive,
7 long-term policies and programs, and are taking
8 prudent, independent actions to reduce our
9 contributions to greenhouse gas emissions."

10 We're very fortunate to have Duke in our
11 community. Thank you very much.

12 PRESIDING MEMBER MOORE: Thank you,
13 ma'am. David Nelson. Good evening.

14 MR. NELSON: Good evening. Thank you
15 for coming to our town. My name is David Nelson.
16 I have a few concerns.

17 First of all, you know, to characterize
18 Duke as anything but a neighbor, I don't know.
19 That may or may not be true.

20 In my experience with going through the
21 AFC previously applied for, and this one, I have
22 real serious concerns. They say they're
23 environmentally sound, but I went to a Water Board
24 meeting and they started a baseline with no
25 historic work data available, and that really

1 bothered me for reasons that you've heard from
2 other speakers tonight. The lack of historic data
3 is available through, from what I understand, in
4 my research, they can do core samples of our
5 estuary and give you people a really fine historic
6 record of what's going on.

7 But all that aside, I am a little bit
8 guarded on how good of a neighbor Duke is up to
9 this point. My concern is the estuary and I've
10 read reports, and I know that your staff has
11 gotten the reports from river keepers and the
12 Telus report, and these are really really
13 important reports showing the devastation of this
14 once-through cooling system that is being proposed
15 and has been used here for 50 years.

16 As has been said before tonight, Morro
17 Bay estuary is truly special, and if people are in
18 the position to stand back away from this energy
19 crisis, so to speak, and look at the bigger
20 picture of the value of this estuary.

21 It's often talked about cost estimates
22 on what this is worth. And, you know, what will
23 dry cooling cost? When you do that, I hope that
24 you can keep in mind that Duke Energy reported a
25 \$1.5 billion take this year in California. And

1 that was reported in a San Diego newspaper. I
2 don't know if it's true. But keep that in mind.

3 And, you know, there are alternatives.
4 Now there is dry cooling alternative that's proven
5 effective in other plants in this country. And
6 especially with the combined cycle plant that
7 they're putting here. It really becomes a 2 or 3
8 percent of the gross on that. And that would give
9 them the ability to move this to, you know, maybe
10 it was talked about in the last AFC, maybe you can
11 put it up on the hill where they have a tank farm
12 out on highway 41. All they have to do is run the
13 gas up there. They could cool it by air. They
14 don't need water.

15 This is a \$600 million project and we
16 don't have a 3-D model. I think that's really
17 unfair. In the last AFC I stood here and asked
18 for a model of what it's going to look like in
19 perspective. We've seen lots of photographs.

20 When this initiative was put up in all
21 of our City offices, they had big, wide-angle
22 photographs of what the plant was going to look
23 like. And the AFC, and the data adequacy that
24 staff has called into question some of these
25 photographs that were portrayed as what we were

1 going to have.

2 I think it's totally possible to have a
3 real model so people can really see what we're
4 going to get.

5 And socioeconomics in this AFC they're
6 using a comparison to Diablo Canyon Nuclear Power
7 Plant for economic impacts on our City. I think
8 this is really a bad way to do it. Diablo Canyon
9 sits in Avila Beach inside 50,000 acres. Nobody
10 can see it from Avila.

11 I think if they want to use Avila as an
12 example of what's going to happen, is when you're
13 putting 2000 pylons in our City for a six-month
14 period of 20 hours a day, what impact is that
15 going to have? I say look at Avila Beach cleanup
16 and look at the golf course. I happened to have a
17 tee time at that golf course while they were
18 putting those in and I can tell you that the
19 attendance at that golf course sharply dropped off
20 because of the noise from this.

21 And I believe, you know, our Motel and
22 Restaurant Association can endorse this because
23 for sure there's going to be lots of transient
24 workers that are going to fill up their motels and
25 fill up their restaurants.

1 Let's look at the bigger picture. This
2 is a really really important estuary that we have
3 here, and I hope that you can stand back, and I
4 know you will, I know that given the right
5 circumstances you will, but unfortunately our City
6 and the MOU has taken the City's voice out of the
7 water and the air issue in this.

8 And I can't afford to come before you
9 people with a big study from experts that could be
10 hired to give you the data that you need. So,
11 without the City support in this area it's going
12 to be a real uphill battle. So at least try to
13 listen and hear what we have to say about this.
14 And try to help us. Have them do the reports that
15 will show the devastation that's been done here.
16 There's lots of reports to back it up.

17 Thanks.

18 PRESIDING MEMBER MOORE: Thank you very
19 much.

20 HEARING OFFICER FAY: Thank you.

21 PRESIDING MEMBER MOORE: Estella
22 Vazquez. Good evening.

23 MS. VAZQUEZ: Good evening. Estella
24 Vazquez from Grover Beach.

25 The first thing I'd like to say is I've

1 been in this County for 11 years now, in which I
2 have not seen very many entities or agencies
3 interested in really, what I call really reaching
4 out to the Latino population.

5 And last August of last year Duke Energy
6 invited a group of Latinos to visit the plant.
7 And what they wanted to do is have an
8 informational session with us. That session
9 included all basic information about the
10 modernization plans, and also they described what
11 Duke Energy is.

12 They gave us a plant tour. They showed
13 us a video, they show us all the process on how
14 they produce the energy, which was really neat for
15 us, we really enjoyed that video.

16 And we also had an opportunity just to
17 ask questions. To me the best part of all was
18 having this whole session in Spanish. So I'd like
19 to thank Duke Energy for that part.

20 After that we gave all the suggestions
21 such as what they really want to do is how can we
22 reach out to the Latino community and take
23 information to them. So we gave a lot of
24 suggestions to them. For example, we said, okay,
25 why don't you produce some of your materials into

1 Spanish language that will explain the main points
2 like a brochure, very simple, easy to understand.

3 They, for example, asked us would you
4 read all this if we translated it into Spanish.
5 And we said definitely not. Not only we're not
6 going to probably understand, but we're not going
7 to be able to read it. It's just a lot of
8 information.

9 So we said if you make something simple,
10 you know, we'll be very happy to read it, and you
11 know, distribute this information to all the
12 community. And then we also suggested that the
13 video that they showed us also would be into
14 Spanish. We also suggested that we Latinos do not
15 have a Spanish newspaper around here yet. So how
16 we got the information is through tv and radio
17 stations. So we gave them the names of the radio
18 stations that we listen to.

19 And that really showed us that they were
20 really trying to reach out to us. So, I'm very
21 very pleased to see that they're not only invited
22 us and they listened to us, but they're actually
23 doing some of the suggestions, the recommendations
24 that we made.

25 And the last thing I would like to say

1 is our Latino community is very diverse, and
2 increasing rapidly in here, California. And we
3 want to be included. And I'd just like to thank
4 Duke Energy for inviting us, for listening to us,
5 and making us part of the process. And after all,
6 I think we're all just part of the community.

7 So I'd just like to say muchas gracias,
8 Duke.

9 PRESIDING MEMBER MOORE: Thank you,
10 senora. David Spawn. Is David Spawn here?

11 MR. SPAUR: It's time to wake up, huh?

12 PRESIDING MEMBER MOORE: Yeah.

13 MR. SPAUR: David Spaur, President of
14 the Economic Vitality Corporation for San Luis
15 Obispo County. We're an economic development
16 agency. We do not take positions in support of
17 specific projects, nor do we oppose specific
18 projects.

19 But I am here to welcome you to our
20 County, thank you very much for being here and
21 having this event hosted here in Morro Bay to help
22 us out and participate.

23 I would like to express some urgency in
24 the Energy Commission's aspect of trying to
25 expedite or be expeditious in this process. I

1 know you do have guidelines and constraints. But
2 during this energy crisis we're really not in the
3 mood of seeing another energy plant, nor do we
4 want another energy plant in this part of
5 California.

6 Much rather see something that's a
7 little bit more prudent like the modernization of
8 an existing plant, and as quickly as possible
9 here.

10 In the past we've found Duke Energy to
11 be extremely willing to work with us in job
12 creation, in supporting activities for business
13 retention, supporting activities in business
14 recruitment.

15 We do not recruit electric utility
16 companies. We typically recruit private business,
17 small businesses that fit into this area.
18 However, if we had to recruit a company to replace
19 PG&E, our first choice based on the evidence we've
20 seen in the last year of operations and working
21 with this company, it would have to be Duke Energy
22 as a corporate neighbor that we would want to
23 recruit.

24 And I would like to leave this letter
25 here for Mr. Fay, for your record. Thank you very

1 much.

2 HEARING OFFICER FAY: Thank you.

3 PRESIDING MEMBER MOORE: Thank you very
4 much. Nancy Barta. Good evening.

5 MS. BARTA: Good evening, thank you very
6 much. It's getting late, I'll be brief.

7 I'm here to speak as a private citizen
8 and not as a member of any board that I sit on. I
9 am a very close neighbor of the plant, and I am
10 very aware of how much this plant needs
11 modernizing. I do wake up sometimes at 3:00 in
12 the morning to loud noises. And I'm also
13 dependent on breathing equipment on occasion, and
14 so I really would like to see a modern, reliable
15 plant.

16 But I also have sat for five years on
17 the City's Community Promotion Committee and I'm
18 aware of how hard it is to bring people into the
19 community. Our community relies on their tourist
20 industry as a major source of income. And to a
21 lot of people, we have a lot of cars that come
22 down the highway, our highway, and a great number
23 of them think of this as nothing but an industrial
24 plant with three big stacks, and don't even pull
25 off.

1 So the City does spend a lot of money to
2 advertise to bring tourism into town. We are
3 dependent on that. And I really appreciate Duke
4 Energy's efforts to improve the plant's appearance
5 and improve our coastal views.

6 And as a member of the County Health
7 Commission that has gone on many of their tours,
8 both as a Commissioner and as a private citizen, I
9 am confident that they will be sensitive to the
10 health risks and the environmental needs of this
11 community, and will be a good listener.

12 And the process will insure that we have
13 a modern plant with as few risks as we can handle.
14 Thank you for listening.

15 PRESIDING MEMBER MOORE: Thank you,
16 ma'am. Steve Soderstrom.

17 MR. SODERSTROM: Thank you,
18 Commissioners, for this opportunity. My name is
19 Steve Soderstrom.

20 First, I would like to recognize Duke
21 Energy and thank them for inviting the public to
22 participate in the planning of their new facility.

23 I am a fourth generation farmer on a
24 family farm in the Los Osos Valley. Our farm
25 supports two families and numerous employees. We

1 irrigate approximately 300 acres of crops. All of
2 our water comes from underground wells.

3 I am concerned that the current energy
4 situation could be disastrous to our families and
5 employees. I am here to voice my support for Duke
6 Energy's new facility. I would also urge you to
7 expedite their permit as soon as possible.

8 On our farm we are conserving both water
9 and electricity by using only drip irrigation when
10 possible. Unfortunately, drip irrigation won't
11 protect us from blackouts and escalating energy
12 costs. After 100 years of farming the same soil
13 my family is now faced with the possibility of
14 losing our livelihood if we can't survive the
15 outages and cost increases expected this summer.

16 While we are in this crisis everyone is
17 looking for short-term answers, but I would ask
18 this Commission to not lose sight of long-term
19 needs. By approving new facilities such as this
20 you are taking steps down the right path to
21 protecting the future of small family farms, not
22 just here but in the entire state.

23 Thank you.

24 PRESIDING MEMBER MOORE: Thank you,
25 thoughtful comments, I appreciate that.

1 Bill Stafford. Is Bill Stafford here?
2 Don Boatman.

3 MR. BOATMAN: Thank you for coming to
4 Morro Bay. I'm a 30-year resident of the central
5 coast, and I surely appreciate that you've come to
6 Morro Bay.

7 I've heard a lot of praise about Duke
8 tonight, and I think it's probably well deserved.
9 They've spent a lot of money and a lot of time in
10 pursuit of this application to build.

11 I'd like to talk about a couple of
12 issues and I'll make it as quick as I can. First,
13 one more thing about spending a lot of money. I
14 worked for PG&E when we were trying to get Diablo
15 Canyon on the line. And we even replaced the
16 County Dog Catcher's radio. We did everything
17 possible to get that plant on the line. And we
18 did. So, I understand.

19 But the City speaks in glowing terms
20 about the MOU they signed with Duke. And there
21 are some good things in it. We had City meetings
22 and the group that I support, Coastal Alliance on
23 Plant Expansion, recommended that we put a cap on
24 the property allowing only these two new plants to
25 be built. And Duke has consistently refused to

1 place a cap of only these two new plants.

2 And it bothers me because I see even on
3 the advertisements of the cars outside, cleaner,
4 smaller, more efficient. But it doesn't talk
5 about there are no caps on this land. That there
6 could be more plants built here. There's a lot of
7 land here. So that bothers me.

8 Number two, I think people need to
9 understand that this plant coming on line 2003,
10 when I believe your figures predict 66,000
11 megawatts of instate generation, which allows us
12 more than 7 percent running reserves. The extra
13 170 megawatts of this new plant plays absolutely
14 no role in the energy crisis of today.

15 Number three, Andy Trump talked about
16 air pollution and people have all hit it, but I
17 would like to see a graph showing what the old
18 plant pollution would be in the year 2003, with
19 the 2003 pollution level requirements, versus the
20 new plant. And the running hours of each plant,
21 the estimated running hours. And see a graph like
22 that, because the citizens would know what kind of
23 pollution from each plant.

24 The other thing, while we were talking I
25 made a quick calculation, 15 years, \$100 million

1 for people within this County from Duke; that's
2 about \$6.5 million a year. A calculation based on
3 \$80 a megawatt hour, which is probably somewhere
4 around where our Governor Gray Davis is talking
5 right now for eight- or ten-year projects.

6 This plant would gross \$691 million a
7 year. So, you know, giving the County \$6.5
8 million a year when they're grossing \$691 million
9 is not a lot. And I think our citizens need to
10 know that.

11 Thank you.

12 PRESIDING MEMBER MOORE: Thank you, sir,
13 appreciate your comments. Henriette Groot. You
14 spoke before, I didn't know whether you want to
15 speak again in addition to the comments you made
16 on behalf of the Alliance or not?

17 MS. GROOT: These are comments I could
18 not make earlier.

19 PRESIDING MEMBER MOORE: I see.
20 Welcome.

21 MS. GROOT: First, a point that I need
22 to clarify, and yes, I will be brief. Thank you
23 for your patience tonight.

24 The technical working group -- no, wait
25 a minute, let me first go to the environment, the

1 leaders group. You might have gave the impression
2 that all environmental groups were invited to meet
3 with Duke in those meetings. I want you to know
4 that the Coastal Alliance was never allowed to
5 attend.

6 I personally attended for awhile with my
7 Sierra Club hat on, and the Coastal Alliance
8 applied to be permitted to join, too. We were
9 denied, and I discontinued my attendance. There's
10 that point.

11 Now, about the technical working group.
12 This is something I haven't discussed with our
13 Board, so this is my personal question. I really
14 worry at this point whether that group helps a
15 breach of the ex parte rule to occur.

16 Because we have there a group of
17 scientists working together, Duke scientists, CEC
18 scientists and Water Board scientists but it is
19 not open to individuals like ourselves. So here
20 is information being shared, and we have no
21 access. The information reaches you, the
22 Commissioners, again we have no access.

23 And so we will be raising a question
24 about that, I'm sure, and I wanted to get that on
25 the record.

1 PRESIDING MEMBER MOORE: Well, let me
2 make it clear to everyone, information that
3 reaches me o Commissioner Keese reaches us in
4 public. The ex parte rule is designed really as a
5 cloak between us, this dais, and everyone else.
6 So, it has to do with our communication with the
7 outside. And when information is presented in a
8 public forum, we get it, and you get it
9 simultaneously. So, --

10 MS. GROOT: Do I understand then, if I
11 may be sure that I understand? You do not have
12 access to any staff recommendations prior to these
13 public hearings?

14 PRESIDING MEMBER MOORE: No, I don't.
15 As a matter of fact the process is set up so as to
16 make sure that I'm getting -- whatever information
17 I get I obtain in the formal public hearing.

18 MS. GROOT: I see. Thank you very much
19 for that explanation.

20 I still feel that the public should be
21 allowed to observe, that people like us should be
22 allowed to observe. Mike Multari from the NEP is
23 allowed to observe. Why are we kept out? But
24 that's not necessarily something that needs to be
25 dealt with tonight.

1 Thank you.

2 PRESIDING MEMBER MOORE: Thank you,
3 ma'am.

4 HEARING OFFICER FAY: And I do want to
5 explain, just so people understand. The ex parte
6 rule, if you will, is a guard-all shield against
7 communications off the record between people out
8 there and the Committee.

9 It does not prohibit the staff speaking
10 to the Coastal Alliance or Duke Energy or Morro
11 Bay, either in the workshops or subject to their
12 own staff rules, at other times off the record.

13 So sometimes people confuse the ex parte
14 rule with any communications i the case. And it
15 really just applies to communications with the
16 decision makers.

17 PRESIDING MEMBER MOORE: Let me ask. I
18 called earlier for Meredith Bates. Did Meredith
19 Bates ever come in?

20 And I also asked if Bill Stafford was
21 here. Is Mr. Stafford here?

22 All right, then our last speaker is
23 going to be John Baker. Is Mr. Baker here? He
24 is. Good evening.

25 MR. BAKER: Good evening, California

1 Energy Commission, nice to be here and nice to
2 have you here.

3 This is going to be the shortest
4 presentation of the evening, not only the last.

5 I first of all would like to comment on
6 Duke Energy and their genial employees. I've had
7 a chance to work with several of them. They're
8 very honest, straightforward, pleasant to work
9 with.

10 I was going to talk about the election
11 last fall, and the two-to-one vote in favor of
12 Duke Energy. But I was upstaged a little by Mr.
13 Meisner and, of course, completely shot out of the
14 water by John Barta and his slide presentation.

15 So, needless to say, I was one of the
16 aye votes, yes votes on that day, one of the 78
17 percent who voted, one of the 63 percent who voted
18 in favor.

19 I would just like, while I'm up here,
20 though, to comment on Mr. Biaggini's presentation
21 and the fact that business increased when PG&E had
22 its remodeling. At that time I had an ice cream
23 store and I remember distinctly employees of the
24 PG&E remodeling crew coming in and buying ice
25 cream. Business was good. Thank you.

1 PRESIDING MEMBER MOORE: Thank you, sir.
2 Appreciate it.

3 MS. MENDONCA: Commissioner Moore, the
4 Public Adviser was given two public comment forms,
5 one filled out by Gary Ryan, who has been a
6 citizen of Morro Bay for 20 years. And one by
7 Jack McCurdy, who is affiliated with the Coastal
8 Alliance. And I will turn these over to staff so
9 that they can address them in their workshops.

10 PRESIDING MEMBER MOORE: I appreciate
11 that very much, thank you, Ms. Mendonca.

12 All right, with that we're going to wrap
13 this part up, the public comment portion. We're
14 going to bring it back to the dais here. We've
15 got a couple of announcements that we'd like to
16 make about procedures, next steps, and the
17 schedule that we'll be pursuing. And for that I'm
18 going to turn to Mr. Fay. And then I'm going to
19 have a couple of wrap-up comments.

20 HEARING OFFICER FAY: I did want to
21 point out that to assist the Committee, as well as
22 anybody else following the documents in the case,
23 the Committee expects to have monthly status
24 reports filed by all the parties in the case. And
25 these should be brief, but should keep the

1 Committee apprised of things going on in the
2 workshops and that type of thing.

3 You can assume that these will be due
4 the 20th of the month. In other words, the next
5 one is due March 20th. And the Committee's
6 scheduling order should reflect that.

7 As to the scheduling order, prior to
8 issuing that the Committee would like some input
9 from the parties on constructive ways to annotate
10 and reduce the schedule provided by staff, so that
11 the case could be done within this year, before
12 the end of this year.

13 And so we'd like to see a revised
14 schedule with annotations as to what the
15 reductions in time mean. And to accomplish a
16 final decision before year's end. And we'd like
17 the parties to file that no later than Monday, the
18 26th. Is that going to be a particular problem?

19 MS. HOLMES: I don't believe we're going
20 to be back in the office until the 26th, since we
21 have to drive back on Friday.

22 HEARING OFFICER FAY: Oh, that's right.
23 Well, can you email it to me by the 27th?

24 MS. LEWIS: I think that's possible.

25 HEARING OFFICER FAY: Okay. Or send it

1 down by fax. I mean even if it's a hand
2 annotation, just so we can understand the reasons
3 for your reductions, and what the reductions would
4 mean.

5 So, let's say the 27th. Okay. Any
6 further questions about that, or any other
7 procedural matters?

8 Okay, Commissioner.

9 PRESIDING MEMBER MOORE: With that, Ms.
10 Mendonca, you have another --

11 MS. MENDONCA: One more public comment
12 from Irene Doering. And she asked several
13 specific questions which I will give to staff for
14 the workshops.

15 PRESIDING MEMBER MOORE: Thank you very
16 much. Those workshops are, by definition, public.
17 We encourage all of you to attend any or all of
18 them. Make your comments known. And certainly,
19 for the public agencies, we will be encouraging
20 you to participate fully in that process.

21 And I want to assure you that we're
22 taking all this very very seriously and that we'll
23 be back in the community to conduct our meetings,
24 and to interact with you, and take all of your
25 suggestions and your comments in stride as we take

1 the process to the next steps.

2 So, you'll be seeing us again. And I
3 want to thank you for your hospitality. And if
4 there's one thing I guess I would conclude on,
5 it's that if you think about whether people were
6 in the favor of the project as it's proposed or
7 not, the one clear thread that runs through every
8 single comment that came up is the pride and the
9 strength of community involvement. And, boy,
10 that's something to savor, so I congratulate you
11 on that.

12 Good night, thank you for coming.

13 (Whereupon, at 9:30 p.m., the hearing
14 was concluded.)

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CERTIFICATE OF REPORTER

I, JAMES RAMOS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Hearing; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of February, 2001.

JAMES RAMOS

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